

**2011 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2187**

## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2187  
January 21, 2011  
13216

☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

Relating to the North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards; and to provide for application.

### Minutes:

Testimony Attached

Chairman Dever opened the public hearing on SB 2187.

**Representative Kelsch:** Representative ReaAnn Kelsch from District 44 in Mandan. I had a couple of constituents that related to me an issue with being able to obtain the licensing. Contrary to the email that I received, I do not have a son who is interested in being an appraiser and I have also heard from people who can't get a timely appraisal done for refinancing of their homes.

**Senator Fischer:** Tom Fischer from District 46 in Fargo. My involvement started 2 years ago with an issue that came before me and at that time I sought the council of realtors and other appraisers, as time went on the problem started with the Board of Appraisers. The thing that I have learned is that there are a lot of people who are not here in fear of retribution. I would ask that you make some changes to this board so they serve the public not themselves

**Rep Wieland:** Allen Wieland from District 13 in West Fargo. I did not receive a lot of direct information regarding it but I was an appraisal for 15 years and did appraisal work before licensing was available. i have read the bill, I support the bill that is why I signed on as a co sponsor

**Senator Heckaman:** Joan Heckamen from District 23 in New Rockford. I too have received concerns that the board is over-reaching their authority I believe that any board that is in the state of North Dakota is to assist in industry and not be a deterrent to it.. Some appraisers refuse to come and testify for fear of retribution. Our needs are growing throughout the state

and I think that this is an opportunity for the board, the appraisers and the committee to do some good work and bring this into a positive light. With the significant signs of questionable practices I ask the committee to bring these 2 groups together and provide some positive legislation. I do have testimony from someone in my community who was unable to attend so I will pass that out now-see testimony #1.

**Senator Olafson:** See testimony #2.

**Doreen Riedman:** See attached testimony #3 & 4

**Chairman Dever:** I'm not clear on how the restructuring of the board will solve the problem?

**Doreen Riedman:** 2 extra people on the housing board would be helpful. It would give all of our groups an open line of communication. There are too few appraisers in the state. This is just another step.

**Chairman Dever:** Does the board have the ability to affect low-ball appraisals, delays additional fees, ect?

**Doreen Riedman:** We believe that these are unethical. Right now nothing is being done, even though they are being reported and they are turning a blind eye.

**Senator Berry:** This is a matter of industry that is involved with lending/building which affects commerce. In your opinion what you be the #1 reason why you can't come up with an agreement.

**Doreen Riedman:** We believe they are operating in a vacuum. There is so much that is done behind the scenes and we have to remember that this is a public board. In the December meeting discussion was halted as we were talking out the door, they didn't want to discuss these things while we were in the room.

**Claus Lembke:** Testimony #5 and testimony #6.

**Chairman Dever:** How many appraisers do we have in the state of North Dakota?

**Claus Lembke:** I believe that it is somewhere around 200.

**Chairman Dever:** When you mention reciprocity, how long does it usually take to get licensed?

**Claus Lembke:** If you are in good standing in Minnesota you can walk out of the office with it.

**Vice Chairman Sorvaag:** What is the delay if a North Dakota wanted to go to Minnesota how does that work?

**Claus Lembke:** I don't know but I know that we are busier than any other state.

**Harvey Trap:** See attached testimony #7.

**Todd Freitag:** See testimony #8.

**Todd Freitag:** I would agree that some of that is the economy but it is not just the appraisers in that situation. There is still not the confidence in the market although this year will be better.

**Chairman Dever:** the regulations that I understand that they have to go through. I want to stay objective too.

**Todd Freitag:** Right now there is concern from appraisers but if there is a \$10k appraisal and for an 1800 sq feet.

**Senator Cook:** Why are values of our homes going down in ND? Is that the appraised value?

**Todd Freitag:** According to what I am hearing from appraisers, yes that is correct.

**Nathan Schwartz:** See testimony #9

**David Lebrun:** Souris River Designs.

**Joe Ibach:** testimony #10

**Chairman Dever:** If the board doesn't provide education where do they get it?

**Joe Ibach:** There are a ton of places to do it throughout the country. Unfortunately if you want to get education it has to be online or go to Minneapolis, Billings or Denver.

**Vice Chairman Sorvaag:** What is your timeframe for turnaround of the information that is found during the investigation?

**Joe Ibach:** There is no written timeframe; there are 4 meetings per year. Our general goal is to have the complaint over in a year. It may seem like a long time but one of our problems is if we receive a complaint the appraisal product has to be reviewed.

**Senator Cook:** You have stated that your work is an opinion of value, you can take an appraiser who has learned all the applicable things, he comes to take the test and he is judged as to if his opinion of values was similar to yours. But, when the same person does that and it fails there is no dialogue as to why their opinion fell below your standards. How are they ever supposed to learn what the opinion is supposed to be?

**Joe Ibach:** The person who has a complaint or whose application has been denied, we provide them considerable dialogue to why it was not approved. We encourage them to attend the board meetings but again, because of distance and time constraints it doesn't happen a lot.

**Senator Cook:** The testimony that we had revealed that it is one of the largest challenges. ON the top of page 14 you talk about providing information you say that your current website posts most of the requested items. Why doesn't it post all of them?

**Joe Ibach:** I don't know where you would start and stop because every appraiser will want something different. The only thing that we can do is post what we see as imperative and current because it is impossible to post everything that is relevant to our industry on the website.

**Senator Cook:** What's important is subjective to you, correct?

**Joe Ibach:** Yes.

**Senator Marcellais:** There has been board members on the for a long time, is there a requirement for furthering education

**Joe Ibach:** Yes all appraisers are required to have 28 hours of continuing education every 2 years.

**Senator Marcellais:** Is that a requirement or a minimum?

**Joe Ibach:** Requirement of the Feds.

**Chairman Dever:** You talk about the statute and law. Is it your feeling that we can't expand on this statute because of federal law?

**Joe Ibach:** It cannot exceed the standards set by the federal government

**Senator Berry:** What is a good solution for both sides?

**Joe Ibach:** We don't have an association of all appraisers in North Dakota but the board is not the place to be that. The issue is the lack of organization.

**Senator Berry:** Why not? Why not have this organization?

**Joe Ibach:** When that organization existed we had people who wanted to keep it going, we don't have that anymore. We couldn't get other people to come forward. It is not easy to get people to be on the board. It is time consuming, technical, ect. If someone has an issue with an appraiser we can deal with that but we are not an educational board.

**Chairman Dever:** Do we need an organization?

**Joe Ibach:** We would have to add staff and the question comes in with how to pay for it.

**Chairman Dever:** Can they join forces with other organizations?

**Joe Ibach:** Yes.

**Chairman Dever:** Can you be a realtor as well as an appraiser?

**Joe Ibach:** Yes.

**Senator Berry:** They mentioned low balling, what interest does an appraiser have in low balling?

**Joe Ibach:** Every industry has bad people who work in their trade.

**Senator Berry:** But they would have no incentive to?

**Joe Ibach:** I have no idea.

**Kathy Meyer:** Attached Testimony #11

**Tim Timian:** See testimony #12

**Senator Nelson:** Your org has 48 members. Would you allow an urban appraiser in your board?

**Tim Timian:** Yes.

**Dennis Huber:** Appraiser from Fargo. I have trained 5 apprentices and have had to hold my breath while they have their work reviewed. Before I ever set foot in the board and it was like a big political dark thing. People are afraid of raising their voice so I went into that meeting with that idea. Then I decided to have all the people that I train to attend a board meeting. I came away with the sense of why the board is doing what they need to do. They send these appraisals to a USPAP area and they have to file. They try to check the facts and if you are not on the board you have to look at the report and they have to make tough judgments. What I am saying to you is that the complaints do have merit. Other states throw them out for ethical reasons. Having a police on the applications is important. I have not seen anything unfair or political.

**Harvey Huber:** Testimony #13

**Mark Gaydos:** Testimony #14


# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2187  
February 17, 2011  
14669

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards; and to provide for application.

## Minutes:

*No testimony attached.*

Chairman Dever shared with the committee the amendments that were generated by Joe Ibach and Claus Lembke.

**Chairman Dever:** It was the understanding that within 2 years that there would be an AMC member on the board. Claus told me that they would be happy with either a realtor or a builder and not both. Moving down, regarding term limits, the appraiser is opposed to term limits. Regarding reciprocity, it says that it is regarding out of state appraisers. It says in a timely manner, the builders would like to limit it to 30 days and the board wants to keep it as is. The realtors didn't say anything about section 4 but it has to do with term limits.

**Claus Lembke:** The one thing you missed on the appraiser line page 4 lines 7 & 8 regarding review standards.

**Chairman Dever:** I remember that and I don't recall if it was in your amendments. The reason for that is that Minnesota has the same requirements as North Dakota. I don't know what the sense of the committee is.

**Senator Nelson:** We are getting a lot of emails from both sides. There has been talk of another group of appraisers, what do we know about that?

**Chairman Dever:** My understanding is that there is an association of rural appraisers. But I am not familiar with any other group. Maybe the first question is should we keep it at 5 members and what should the makeup be? As I know it now the public member is an attorney so that is from the legal side.

**Senator Cook:** As I look at this I tend to like going to a 7 member board with a majority of appraisers on it. So as I look at these 2 options I guess I am looking at the 7 member board that appraisers offered for the board makeup; one realtor, one builder, one financial person, one management company or legal and 4 appraisers, one of which should be a from a rural area. Again, what is the language as to who submits the names?

**Chairman Dever:** The language would be in section 1 subsection 1b.

**Senator Cook:** I don't see anything wrong with how it is represented here.

**Vice Chairman Sorvaag:** subsections c, d, & e are going to have to be re worded if you go with the 7 member committee because that was laid out to match the realtor's suggestions. I do agree with Senator Cook that there should be a majority of appraisers on the board.

**Chairman Dever:** How do you feel about the addition of the language calling financial industry representative, 'who has a background in real estate and the lending process'; does that mean a banker has to have been a real estate agent?

**Senator Cook:** I don't know if that is required. Just come from a financial institution and they are making real estate loans all the time. They have the necessary experience.

**Chairman Dever:** So then with the adjustments of subsection c, d, & e you think that it's ok?

**Senator Nelson:** You would be deleting subsection e.

**Chairman Dever:** How important do you think it is to have a public member? A member that is an AMC or legal could be a public member since we are not going to have the requirement for AMC and the current member is an attorney and already satisfies that.

**Senator Nelson:** If you want it to be an AMC or legal person you need to rewrite it that way.

**Chairman Dever:** I think a lot of the boards include public members. In reference to term limits the realtors/builders/bankers like term limits and the appraisers don't like them but are in favor if we have a 2 year limits with a year off before a third term. Ideally it seems to me the governor's office would be more diligent in addressing those types of things.

**Vice Chairman Sorvaag:** If we are going to leave that I would like to see it increase it to 2 years between terms in order for a little spacing and to give new board members some chance.

**Senator Cook:** I tend to think that terms limits are needed but it is a question of when do they start? What affect would they have?

**Senator Schaible:** I would agree with that, term limits but without shaking up the board as a whole.



**Chairman Dever:** We could make it retroactive.

**Senator Schaible:** Most of them have been on more than 10 years. If it starts over do you want them to start on another 10 years; I guess I would be more looking at leaving the existing member on for maybe one term and going with a new member after that.

**Senator Nelson:** We have had bills where we phase people in over a period. The longest serving one would be phased out first and set the dates in statute.

**Senator Cook:** If you go to the end of the bill, section 4 Application, it references the date of this act and I think that you would just need to change that.

**Senator Nelson:** That last language is interesting because it is set at 4 year terms and currently they have 5 years terms.

**Senator Cook:** I think that is reflective of the number of board members who would be immediately term limited by the effective date of this act, so to try and bring in new board members and stagger them.

**Chairman Dever:** If we were to put an actual date rather than an effective date in there would that work?

**Senator Cook:** I don't know what the right date is.

**Senator Nelson:** I would like to see the 2 year break.

**Chairman Dever:** We can have the amendment drafted and then look at this tomorrow. Page 4, dealing with reciprocity. As it is written now, 'in a timely manner the board shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other states requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state.' My understanding now is that it is true of Minnesota but it was not before. One side says within 30 days the other side doesn't want that, they would like to keep the language at 'in a timely manner'

**Senator Cook:** I am not hung up on either one but when you are waiting for the decision to be made and you are the one being affected by it, it is very frustrating.

**Chairman Dever:** Timely is relative.

**Senator Cook:** I have a problem with not knowing what a timely manner is.

**Senator Nelson:** Can you say something like 'within 30 days of application' that should be long enough.

**Chairman Dever:** The 30 day requirement.

**Senator Nelson:** I like the 30 days from receipt of application.

**Senator Marcellais:** I would agree with that.

**Chairman Dever:** How about the words may and shall?

**Vice Chairman Sorvaag:** I think that you keep shall or the rest would be meaningless.

**Chairman Dever:** If someone is in good standing in another state is that the only criteria for consideration that should be made?

**Senator Cook:** Maybe if they can't do it within 30 days then they should send notice.

**Senator Nelson:** There would have to be some kind of response to 30 days.

**Vice Chairman Sorvaag:** Maybe they need to give the applicant a reason.

**Senator Nelson:** Response could be to the permit or the reason they are not making the 30 day cut off.

**Chairman Dever:** Would that be covered elsewhere?

**Senator Nelson:** The third sentence says that it has to be the same as in the state that they are in another state.

**Senator Cook:** If we are drafting amendments for tomorrow I would suggest you put in, 'within 30 days the board may'

**Chairman Dever:** Shall issue a permit or reason for not.

**Senator Schaible:** The last line are we leaving that in?

**Chairman Dever:** Both sides agree to take that out.

**Senator Nelson:** What about section 4

**Senator Cook:** Need more info before we can discuss that.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2187  
February 18, 2011  
14725

☐ Conference Committee

Committee Clerk Signature

*Kate Quinn*

## Explanation or reason for introduction of bill/resolution:

Relating to the North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards; and to provide a penalty.

## Minutes:

No testimony attached

Chairman Dever called the committee to order, roll was taken and passed out the amendments for SB 2187 that had been provided by Jennifer Clark.

**Vice Chairman Sorvaag:** There seems to be an implication from some appraisers that there was no one at the table when you were discussing this.

**Chairman Dever:** The association of agriculture appraisers was at the table during this discussion.

**Senator Nelson:** What or who is an appraiser management company?

**Claus Lembke:** A management company hires a X number of appraisers and the bank calls the company and then they assign it to their approved appraisers.

**Senator Nelson:** Appraiser or appraisal management?

**Claus Lembke:** Appraisal. But I don't think it will change the meaning.

**Chairman Dever:** If we adopt these amendments before we will check that and have it corrected.

**Senator Nelson:** Would you like to give us a report on the meeting with the 2 sections?

**Chairman Dever:** One week I visited with Joe Ibach at his office and decided to call a meeting. We had at the table Senator Olafson, independent bankers, bankers, realtors, builders were all present. Joe came with the right attitude, he asked each person what their biggest concern was, we did that, went through the bill and let people provide input. Came to general agreement on that, I felt really good because one of the participants said that she had never seen anything like this before in the legislative process.

**Senator Nelson:** Based on that discussion, could they have solved their problems without us?

**Chairman Dever:** I think that one of the results of this is a better line of communication.

**Senator Cook:** I think that it is a very good questions and I think that doing something to this bill and passing it on would allow them to continue to develop communication. If we walk away all the valuable discussion will stop. Sometimes just having the issue on the table can be good.

**Chairman Dever:** I think that some problems are fixing themselves like the reciprocity with Minnesota.

**Senator Nelson:** Have you talked to the governor since he is responsible for appointing these people?

**Chairman Dever:** I have not had that conversation. Claus Lembke has.

**Claus Lembke:** We went to the governor's office and yesterday Senator Olfson talked with Brian Bernstein.

**Chairman Dever:** Should they be more diligent in the appointments that they make?

**Claus Lembke:** Yes but when the chairman of the appraisal board holds fundraisers at his house for both preceding governors.

**Senator Cook:** I think that we should change it to appraiser management company to appraisal management company. And I would also offer for discussion the merits of taking out the language, 'or be a licensed attorney'. I think that is would be wise to take that out. My guess is that the board already has an attorney on the table.

**Chairman Dever:** One of the reasons we were putting appraisal management in place is because we thought it would be required federally. Maybe we should put it back in?

**Senator Cook:** Isn't the board represented with an attorney?


**Chairman Dever:** Yes I think that ever Board has one.

**Senator Cook:** I would offer to take that off, if everyone else agrees.

**Senator Nelson:** This might make 5 appraisers on the board.

**Chairman Dever:** Page 1 line 11 is where we change it from 3 to 4 appraisers.

Senator Cook moved the amendments 02001 with the changes, appraiser be changes to appraisal and on page 1 line 9 remove the language, 'be a licensed attorney' with a second by Senator Schaible. There was no further discussion, roll was taken and the motion to adopt the amendment passed 7-0. Senator Cook then made a motion for a do pass with a second by Vice Chairman Sorvaag, there was no further discussion, roll was taken and the motion passed 7-0 with Chairman Dever carrying the bill to the floor.

  
2-18-11  
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PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

Page 1, line 9, remove "be a"

Page 1, line 9, overstrike "public"

Page 1, line 9, replace "member" with "be a representative of the appraisal management company industry"

Page 1, line 11, replace "; one member" with "or"

Page 1, line 11, overstrike "three" and insert immediately thereafter "four"

Page 1, line 13, remove "and at least one of which resides in a rural area not included within the"

Page 1, remove line 14

Page 1, line 15, remove "time of the member's appointment"

Page 1, line 21, replace "has" with "must have"

Page 1, line 22, after "in" insert "the"

Page 1, line 22, remove "and the"

Page 2, remove lines 3 through 6

Page 2, line 7, remove "e."

Page 2, line 7, overstrike "The public member of the board may not be engaged in the practice of real"

Page 2, overstrike line 8

Page 2, line 12, replace "ten years" with "two consecutive five-year terms, after which at least two years must pass before the governor may reappoint that former member to the board"

Page 2, remove lines 22 and 23

Page 3, line 17, after "of" insert "quarterly"

Page 3, line 18, remove ", hearing notices."

Page 4, line 2, replace "In a timely manner" with "Within thirty days of receipt of a completed application."

Page 4, line 7, remove "Board reciprocity"

Page 4, replace lines 8 through 14 with:

**"SECTION 4. APPLICATION.** The change of the board composition provided for under section 1 of this Act becomes effective on August 1, 2011, at which time the public member board position terminates. In order to initiate staggered board member terms for the three new board members, the governor shall appoint one new member to serve a term that expires June 30, 2013, one new member to serve a term that

expires June 30, 2014, and one new member to serve a term that expires June 30, 2015. *2012*

The change in the term limits for board members provided for under section 1 of this Act applies to board member appointments and reappointments made after July 31, 2011; therefore, the new term limit provisions do not disqualify any board member serving on the effective date of this Act, but may prevent the governor from reappointing a board member after the effective date of this Act."

Renumber accordingly

Date: 2/18/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2187

Senate Government & Veterans Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cook Seconded By Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2/18/11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2187

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cook Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	<u>X</u>		Senator Marcellais	<u>X</u>	
Vice Chairman Sorvaag	<u>X</u>		Senator Nelson	<u>X</u>	
Senator Barry	<u>X</u>				
Senator Cook	<u>X</u>				
Senator Schaible	<u>X</u>				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Dever

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2187: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2187 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "be a"

Page 1, line 9, overstrike "public"

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The change in the term limits for board members provided for under section 1 of this Act applies to board member appointments and reappointments made after July 31, 2011; therefore, the new term limit provisions do not disqualify any board member serving on the effective date of this Act, but may prevent the governor from reappointing a board member after the effective date of this Act."

Renumber accordingly

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2187

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2187  
March 15, 2011  
15450

☐ Conference Committee

Committee Clerk Signature

*Ellen LeTang*

### Explanation or reason for introduction of bill/resolution:

North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards

### Minutes:

**Chairman Keiser:** Opens the hearing on SB 2187.

**Senator Joan Heckamen~District 23-New Rockford:** Introduces SB 2287. I signed on to the bill on how it was affecting some of the appraisers in my area. I receive some information that the appraiser board was over extending their authority. Some of the appraisers feared to come forward because they feared retribution or some action by the board when they went to renew their licenses. We are a small state and we need to work together in this industry in a better light. I just received an email that the board had made some changes already, they are notifying the appraisers of the upcoming boards meeting, which they haven't been doing. Those changes are positive. I ask for your actions for a do pass on SB 2187.

**Representative Nathe:** You stated that the board was over extending their authority. Can you give me some examples of that?

**Senator Heckamen:** One of the incidences was an appraiser went to get recertified and when they were denied, they asked for the reason, they said that we don't have to tell you. I think that is overextending their authority. As a board, you work for the industry and the people.

**Representative Alon Wieland~District 13 in West Fargo:** I support this bill and also the amendments. I was a licensed appraiser in North Dakota for over 15 years and actually did appraisal work before licensing was available in the state.

**Representative Roscoe Streyle~District 3-Minot:** Most of these problems were created by federal law with these appraisals when they are to be paid up front. The brokers can't talk to the appraiser which is federal law. It's a good bill but I recommend on page 1, lines 9 & 10, we don't have any in this the state. I would recommend "or" to "and". One of the most important changes on this bill, page 3, line 25, changing "may" to a "shall". We have a shortage in the industry and you "shall" issue a license for somebody wants to come in from out of state, I think is a good change to make. Another important piece that I don't see

in this bill is the timeliness of appraisals. We are having problems with that where it takes 2 or 3 months to get an appraisal. Gave examples of problems.

**Representative N Johnson:** Have there been an increase in the amount of appraisals that need to be done in your area of the state?

**Representative Streyle:** Absolutely.

**Representative N Johnson:** Has there been an increase in the number of appraisers?

**Representative Streyle:** Not to my knowledge.

**Representative N Johnson:** With the residential, is that federal law that you can't talk to them?

**Representative Streyle:** Yes.

**Representative N Johnson:** Our state can't change any?

**Representative Streyle:** No.

**Chairman Keiser:** What percentage of residential are refinances versus new?

**Representative Streyle:** I can't give you an exact number but about 50% is my guess.

**Chairman Keiser:** When interest rates are down and everyone is refinancing, there is super demand, if interest rates go up 10%, we will have a surplus of appraisers.

**Representative Streyle:** You're probably right.

**Representative Kreun:** Is the goal to increase of number of appraisers in the state?

**Representative Streyle:** The changing the "may" to "shall", that doesn't give the board the discretion. The "shall" is important and it's a hard industry to get in.

**Representative Kreun:** Isn't it close to two years that you have to work underneath an appraiser in order to obtain your license, would the board be interested in looking at a waiver as well or is that not an option?

**Representative Streyle:** I'm not sure if that's an option or not.

**Representative Kreun:** Lines 13-16, why is it being crossed out on page 1?

**Representative Streyle:** I'm not sure, I wasn't there in the bill draft.

**Representative Nathe:** Can banks determine who the appraisers are?

**Representative Streyle:** We have no choice, the brokers will put it out to one of these appraisal management companies, they are on a rotating pool and they will put in the bid of what the cost would be, before we were able to pick. It's federal law and we can't change that.

**Representative Vigesaa:** How long is an appraisal good for?

**Representative Streyle:** Six months or less.

**Representative Vigesaa:** Is that in federal law?

**Representative Streyle:** It's probably in underwriting, they would set their policy. I don't know if there is federal statute.

**Claus Lembke~North Dakota Association of Realtors:** (See attached testimony 1).  
(Passes out two testimonies not signed because of retribution~1-A & 1-B)

**Representative Nathe:** On page 1, line 9, is there a reason a member of the public is not a member of the board, why was that taken out?

**Claus Lembke:** It required a lot of knowledge of the appraisal business and they didn't know much about appraisals. Nobody had any trouble with removing public member and replacing it with a builder.

**Representative Nathe:** Did your group reach out to the appraisers in crafting this bill?

**Claus Lembke:** No we did not.

**Chairman Keiser:** With the other states, do we have reciprocity in their states?

**Claus Lembke:** Minnesota doesn't have it, but neighboring states have it.

**Chairman Keiser:** They already grant reciprocity with us.

**Claus Lembke:** It's not automatic, you have to fill out a form.

**Chairman Keiser:** There language says "shall" not "may"?

**Claus Lembke:** I don't know.

**Representative Kreun:** Is there different requirement for residential versus commercial appraisals and federal appraisals?

**Claus Lembke:** There are different classes in limiting permits. There are 3 classes and stages.

**Representative Kreun:** Certain appraisers can't appraise commercial property?

**Claus Lembke:** I believe that's correct.

**Representative Kreun:** Does this include all of those different categories of appraisers that could come in and have the reciprocity as well?

**Claus Lembke:** I don't think that changes anything, we are not addressing limitations here.

**Representative Kreun:** It takes a while to become an appraiser. The membership of the board in good standing of an organization belonging to an appraisal foundation, why would we take that out of the recommendation on page 1, on lines 13-16?

**Claus Lembke:** That was the very first time when the board was established. It was necessary to have that language but you no longer need this; it was just on the first round.

**Representative Kreun:** That answers my question.

**Representative N Johnson:** The reciprocity, is the requirement for the valuation for the work product, is that a state or federal requirement?

**Claus Lembke:** It's a federal requirement that each state must use the review process. Minnesota did not, so Minnesota couldn't get reciprocity because they were lacking the minimum federal standards. So they applied the review process. We have some problems with the review process. We know of a case where the appraiser was asked to send in some of his appraisal work. They sent it to an outstate reviewer and the reviewer said, yes this person does good work. A month later, this appraiser asked the appraisal board, where's my permit? They said that they didn't like the review, so we are going to send it to somebody else. It's like we are going to find somebody to find something wrong with this.

**Representative N Johnson:** This bill says you want the reciprocity even if they don't meet the federal standards, you still want our state to give a licensure to somebody, even though they don't meet the federal requirements?

**Claus Lembke:** No, on page 3, lines 25 & 28, the applicant must be licensed or certified in good standing with another state, if that state's requirement meets substantially equivalent requirements of the federal or state law. You need to meet both conditions.

**Representative N Johnson:** Where is the federal part in there?

**Chairman Keiser:** If we impose the federal, that's the requirement they have to meet?

**Claus Lembke:** That's correct. Not all appraisers would be able to appraise if they didn't meet the federal requirements.

**Chairman Keiser:** I'm thinking of all of our other boards; nurses and chiropractors are impacted by what doctors do, should we be adding nurses and chiropractors to the North Dakota Medical Board.

**Claus Lembke:** Wouldn't hurt.

**Harvey Trapp~Real Estate Appraiser:** (See attached testimony 2).

**Chairman Keiser:** The portion of the bill that you are most concerned about is subsection G, page 3?

**Harvey Trapp:** Yes, that's what affected me.

**Representative Boe:** The board serves at the pleasure of the governor, has anyone ever contacted the governor's office?

**Harvey Trapp:** I do not know.

**Doreen Riedman~Executive Officer of the North Dakota Association of Builders:** (See attached testimony 3). (Passes out amendment). (Passes an appraiser's testimony).

**Representative Kreun:** That meetings and public notifications are not posted?

**Doreen Reidman:** That is correct and when we were at their board meeting in December, we were basically asked to leave and discussion was not held in front of us until we went out the door.

**Representative Kreun:** Have you inquired with the Attorney General to follow the open meeting laws.

**Doreen Reidman:** That did cross our minds and there has been some discussion.

**Chairman Keiser:** But you didn't.

**Doreen Reidman:** We did not, but I know the Attorney General's office has been contacted in other manners and we did contact the Governor's office regarding the board makeup before we put this bill in to begin with and basically given the nod to go ahead. They have had a lot of comment and complaints about appraisers themselves.

**Representative Kreun:** The posting of quarterly meetings, notices and minutes, I think that is required after each meeting.

**Chairman Keiser:** Did I hear you right, that no one else has apprentice programs?

**Doreen Reidman:** No, they do have an apprentice programs for attorneys, engineers and lots of other professions, but we don't see the sense in building those occupations.

**Representative N Johnson:** The list seems to be parent then sibling, is that something that the board can address?

**Doreen Reidman:** That's correct. I don't know how we can affect that, they have their fence built and they are doing what they can within it. We think that having more



accountability on this board, having the builder and realtors sitting at the board meetings, having more information posted, the reciprocity program, turning the "may" into the "shall", we need more appraisers and they say it's their choice of their business to bring them on or not. They have that right but it's very disturbing.

**Chairman Keiser:** Do you have any documentation that energy efficient systems actually does increase the market ability of houses?

**Doreen Reidman:** The market will determine that.

**Chairman Keiser:** Maybe incidences on both sides. There are two sides and when you make those bold statements that they are just saying, give us the documentation that it's worth it and we will appraise it, is another argument here.

**Representative N Johnson:** The first thing in your complaint was the long waiting times for appraisals, it's not the fault of the board, am I missing anything different here?

**Doreen Reidmen:** That's where the reciprocity will be important, to bring in more appraisers. We think the accountability and having more openness of the board.

**Senator Olafson~District10:** (See attached testimony 4).

**Doreen Reidmen:** (Passes out Nathan Schwarz's testimony, 4-A).

**Chairman Keiser:** Any questions for Senator Olafson? Anyone else here to testify in support to SB 2187, in opposition?

**Joe Ibach~Chairman of the North Dakota Real Estate Appraiser Qualifications and Ethic Board:** (See attached testimony 5).

**Representative Boe:** You mentioned you have apprentices working for you, what do you gain by employing these appraiser's?

**Joe Ibach:** My personal strategy is I bring them in next door; I set them down, the next day we go out and look at a house. He comes back and starts doing the report. Relative to compensation, I tell them for the first year, I'm going to pay you X number of dollars. I have found that works, after 6 months, you finally see the return, but the first 6 months, you are losing money. I have come to the position that, if I don't hire the apprentices and get them trained, I have to do one of two things. Either turn down the work or not give service to my clients. I try to do both. We are unusual in my office because we do things nobody else will touch. Personally, I bring them in, give them a salary, once they become seasoned, then it goes on more by salary commission bases.

**Representative N Johnson:** There have been some questions about open meetings, posting minutes, how does that work in your organization?

**Joe Ibach:** Our meetings have always been posted with the Secretary of State's web site.

**Representative Nathe:** When there is a complaint and when they ask for a reasoning we were denied, what we keep hearing, "we don't have to give you a reason". What is the board's explanation of that is?

**Joe Ibach:** That one puzzles me because I've been at every board meeting for the last 15 years and if we have denied or taken action, it's been very specific as to why. They sometimes don't understand how we can interpret the rules as we do but then it gets into interpretation of rules. You can have a lot of interpretations but the board has to have the final say as to what we consider the best interest to the public. Essentially we are always dealing with the appraisal not the appraiser, it's important that the appraiser wrote that appraisal but did that appraisal meet uniform standards and if it hasn't, we told them this is why it has not met uniform standards. It's always in the minutes what the deficiencies were in that particular appraisal.

**Chairman Keiser:** Do you have some examples of actual cases that we can see?

**Joe Ibach:** We can provide you a copy of all the minutes.

**Chairman Keiser:** Does this board have a special assistant Attorney General?

**Joe Ibach:** Yes, we do.

**Chairman Keiser:** Are they not watching the legal operations of this board?

**Joe Ibach:** Our legal counsel is there at every board meeting when we deal with those issues.

**Representative Nathe:** It's stated in your minutes but was it stated specifically to that appraiser?

**Joe Ibach:** If they are at the meeting, it's specific. If they are not at the meeting, we do send out a notification as to why your application was denied or why discipline was taken against you, yes it is.

**Vice Chairman Kasper:** I'm a builder and I call you up and say "I need an appraisal for one of my customers", can you walk me through the process as to how your office works.

**Joe Ibach:** We take the order, inspect the property, the proposed construction will inspect the site, and look at the plans. There is two general approaches to value, the cost and the sale comparison. The builder will give us the cost, we have methods to determine whether or not that cost is reasonable. Then we go to the market place and assemble comparable sales to determine if that cost is supported. It's always based on the market. A comparable sale has to have market exposure for newly constructed site. We look at what was exposed to the market place to determine whether or not that value is or is not supported based on the market place. We determine it based on cost and the sales comparison in reconcilable value there.

**Vice Chairman Kasper:** Let's talk about the cost approach. The builder gives you everything you need to verify the costs. How long of a time period does it take?

**Joe Ibach:** Within 2 to 3 hours.

**Vice Chairman Kasper:** Now we're at a half a day. Now you have to get comparable sales, do you have computerization to look at sales in the area? Where do you search for comparable sales.

**Joe Ibach:** Work through different avenues.

**Vice Chairman Kasper:** Let's assume in Bismarck, how long does it take to search your records to come up with the comparables?

**Joe Ibach:** Within 1 to 2 hours there.

**Vice Chairman Kasper:** We still are not a full day. Let's assume that you are rural and you need to do a little more research, how long does it take to do research on the average?

**Joe Ibach:** That could take from 1 to 2 days,

**Vice Chairman Kasper:** Let's say 3 days, you have 1 day to do the cost analysis, 1 day to do the comparables in a city and 3 or 4 days for a rural area. That's a week, why does it take 3 or 4 months to do appraisals, when you can do your work in a week?

**Joe Ibach:** It takes that long because there were 100 orders before him.

**Vice Chairman Kasper:** How many sales or appraisals have you done in the past year for you personally?

**Joe Ibach:** Every appraisal that goes out of my office, I personally read and sign off. How many we do, 500.

**Vice Chairman Kasper:** That's 500 in a year, so you have 5 people doing the work, that 100 per person and you have a week. What I'm getting at is there is a problem in the system. It appears that there is inefficiency and slow down somewhere for a builder to have to make a complaint where they can't get an appraisal.

**Joe Ibach:** The numbers I just gave you represent my firm. I have 1 ½ doing residential and 3 ½ doing commercial, a commercial can take anywhere from a week to a month. You have to realize what we are talking about and that is why we have the backlog.

**Representative Amerman:** The attorney that has been on your board for 15 years, is that the one that represents the public?

**Joe Ibach:** Yes.

**Representative Amerman:** Is it the same attorney that has been reappointed or is it different ones over the years.

**Joe Ibach:** In the course of my career, we have had three attorneys.

**Chairman Keiser:** There seems to be concerns about the retribution in filing a complaint. You pointed out that a complaint has to be filed. Is there a practice within the board being extremely tough on complaints? Is it that you are being too strict in the application or is it federal law is so specific that you have no flexibility?

**Joe Ibach:** When a complaint comes in, essentially it's a complaint on an appraisal and an appraiser. We have no idea who the appraiser is, we are looking at the appraisal. Is it a good or is it a bad appraisal? It's not until we find out whether or not there is grounds to move forward that we find out who the appraiser that did the work. There are many times we dismiss the complaint because there is nothing to go on because we have no idea who the appraiser was.

**Representative Nathe:** How many complaints do you get in a course of a year.

**Joe Ibach:** Too many, about 10 a year.

**Chairman Keiser:** Further questions? Anyone else here to testify in opposition to SB 2187.

**Dennis Huber~Represents himself and the North Dakota Appraisers Association:** (See attached information). We have organized our mission statement, which is to enhance the public trust of appraisers. We are ¾ through our bylaws and we started after the senate hearing of this bill. In front of you is a survey of appraisers (see attachment 6-A). 73% of the appraisers opposed the original bill. That isn't the bill that was passed in the senate. 80% of us didn't have any idea it was coming and there was 7 appraisers out of 97 who were aware of this. I would be heavily suspicious that those 7 are probably the anonymous document you receive who fear retribution. I'm amazed at the fear of reprisal. Fear of retribution, I think not, I think it's fear of reputation. It bothers me that the board was painted with this bill. What is retribution; it is this bill, to punish the board that took action. We as appraisers, have a lot fear of what will happen if you approve the new amendment to the board's termination notice as proposed here today. Joe Ibach is up for reappointment from the governor. This bill takes away that decision and now we start with someone other than that. There is a lot of talk about fence building, we train them and they leave. One of the questions we asked in a survey was the reasons I would consider having an apprentice and the majority said to build and expand my business. Then on the reasons they would not have an apprentice, they said I couldn't retain a return on my time and expenses. It is surprising that we find there are 47 apprentices and I don't know how many are working. There are 37 certified residential and 47 licensed. 80% of the 47 appraisers want to get licensed because you can't do FHA unless you are licensed. So that isn't really the problem, the problem is the qualifications of education and experience. That law should have been in effect from the beginning, but our good friend here was in charge or participated in that and they took out the certified residential because they didn't want it. It was more than the minimum standards. Right now we have 47 licensed appraisers, 80%

would like to be certified so they can make a living. So beware of legislation that can mess you up. Reciprocity, I never saw anyone denied reciprocity. We have reciprocity with 50 states. Does Fannie Mae have fences, yes, Fannie Mae says before you except an assignment you must have geographic competence. Harvey is a good man and tried to be superman. After the senate session, I did meet with a number of coalitions to access their problems and there are real problems out there. Businesses that we build over the past 15, 20 years were gone with one change in the law. We had to change how we did and what we do. One thing that is very evident nationally, in all the laws and lending that is going on, they are saying appraisers need to be able to be independent and impartial if they are going to trust their product. They went overkill and communications lines are not good. We can communicate with a realtors or a builders if they don't put undue pressure on us, that the killer line. I review the builder's situation with energy efficiency and I thought they put a lot of work into that. Unfortunately, the result they asked us to do was to increase their values by a certain percentage based on the criteria. We can't do that, it's against ½ of that book. We can take the information and utilize it if we rework it a bit. **On page 2 of the handout is ASC guidelines. (see attachment).** ASC regulates the appraisals board and they are the federal. I have no problem with the realtors and builders being on our board, I just hope they participate and doesn't hurt the efficiency of the board. Every permit and complaint has to be a board decision. Now we are going to assemble this huge board together by phone or person, for 1 or 2 applicants. I think there are other ways to deal with that. In ending, I would like everyone to understand that the appraiser has an ethic rule that is awful hard for us to meet on a day-to-day basis. **On page 3 of the handout, reads the ethic rule. (see attachment 6-C).**

**Representative N Johnson:** Are you a member of the board?

**Dennis Huber:** No.

**Chairman Keiser:** Anyone else here to testify in opposition to SB 2187?

**Jodie Campbell~Administrative Staff for the North Dakota Appraiser Board:** (See attached testimony 7). I do support the SB 2187 with the amendments as recommended by the appraiser board and expressed in the testimony of Joe Ibach. I do not support the amendments purposed by the homebuilders or the others.

**Chairman Keiser:** Anyone else here to testify in opposition?

**Dave Campbell~Appraising for about 35 years and works with Jodie Campbell on the Appraisal Board:** (See attached testimony 8). I do support the SB 2187 with the amendments as recommended by the appraiser board and expressed in the testimony of Joe Ibach. I do not support the amendments purposed by the homebuilders or the others.

**Chairman Keiser:** Anyone else here to testify in opposition, in the neutral position to SB 2187?

**Dana Bond~North Dakota Farm Credit Council:** (See testimony 9).

**Closes the hearing.**

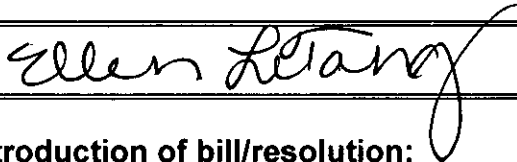
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2187  
March 16, 2011  
15607

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards

### Committee Work Session Minutes:

**Chairman Keiser:** Opens the work session on SB 2187.

**Chairman Keiser:** We had amendments offered, this was the appraiser qualifications, appraiser board and with all sorts of issues. We had amendments offered by the Home Builders and Joe Ibach. Joe Ibach was more a technical one, clarifying if they didn't have to grant a license to somebody who was in good standing but had some complaints filed against him from another state.

**Vice Chairman Kasper:** I've been talking to a number of people and I see the problem is that this industry has a huge fence around it. The appraisers on the board and the statute the way it is, requires the apprentices, where they are in a position to work with appraisers if the appraisers want them. The appraisers do not have to hire them. The new person who wants to be an appraiser has to study and take a test. I believe we are never going to solve this problem unless we let the market do the work. That would be to eliminate the requirement that a new appraiser to become an apprentice for two years. I think we should strike that out, allow any appraiser who passes the test to immediately become an appraiser. They don't have to work as an apprentice. The one individual stood up and showed us the appraiser book; well you go to school to learn that. Once your school is finished, go out and do the work because we have a shortage. If they mess up, now they go to the board, complaints filed and the board can take disciplinary action. Whatever it takes to get rid of that apprenticing in the bill, we should have an amendment that does that and let it go.

**Representative N Johnson:** I'm not sure but isn't that apprentice thing a part of the federal requirement?

**Vice Chairman Kasper:** What authority does the federal government have to tell the state of North Dakota how we are we are going to have statute to regulate our appraisers. Is it because they might appraise some federal buildings and that's their standard?

**Representative N Johnson:** The Dodd-Frank did it.

**Vice Chairman Kasper:** The Dodd-Frank does it? Let's nullify that. Is there a penalty if we eliminate that?

**Representative Ruby:** Wouldn't it interfere with our reciprocity?

**Chairman Keiser:** That was part of the solution to this problem is to have automatic reciprocity.

**Representative Ruby:** How can you have reciprocity when you also have to acquire geographical knowledge of the area?

**Representative N Johnson:** And that's Dodd-Frank again.

**Vice Chairman Kasper:** Could we ask Claus Lembke some questions?

**Vice Chairman Kasper:** What would be the ramification if we eliminated the apprenticeship in North Dakota. Could we do it with Dodd-Frank and what consequences or disadvantages would we have?

**Clause Lembke:** I understand that Dodd-Frank is brand new. I do believe that the statement you made that you can't, you have to follow those minimum standards or you are not in compliance. It could knock out all the appraisers out if you are not in compliance. No appraiser would be in compliance if you took out the apprenticeship.

**Vice Chairman Kasper:** Do you mean that no appraiser would be qualified to appraise any loan that had federal funding? How would they not be qualified?

**Clause Lemke:** There are virtually no loans that do not have some federal involvement. Virtually, about 96 or 97% of loans are federal involvement.

**Chairman Keiser:** The federal government is no different than we are. They are picking up the tab on home financing and they are saying we want to call some of the shots.

**Representative Kreun:** is there a way we can entice realtors to encourage them to have apprentice appraisers?

**Chairman Keiser:** It is double the work and the one group, the bankers, want to play both sides of the fence on this one. The bankers want great appraisals. They are going to underwrite based on the appraisal and they are sending an appraiser out there. They are going to want a quality appraisal. If you push the bankers, I think you will find that they support the apprentice program. That gives them quality and the last thing they want is somebody appraising a bunch of bad deals, taking them on, putting them in their portfolio and having them go south. One of the good things about the Dodd-Frank did but it is contributing to this problem, is that arm's length position on appraising. The banks, when they could dictate who would do the appraising, they would get appraisers that would come in low, so that it would reduce the risk to the bank.

**Representative Kreun:** Part of the problem is you are stuck with the appraiser and if they are not top quality appraisers, you don't get that great of an appraisal either.

**Chairman Keiser:** But now they are in the pool, you have to go to one of these intermediate agencies, you put in your application, they assign the appraiser and the appraiser gets there when they can.

**Representative Boe:** What if we made it a requirement to sit on the board that you had to have a certain amount of apprentices?

**Chairman Keiser:** That's not a bad suggestion. Keep in mind that sitting on this board doesn't make them any money.

**Vice Chairman Kasper:** I have been reviewing the amendments that the builders proposed and what Joe Ibach proposed, the Ibach really isn't substantive, he just wants to go from 30 to 60 days and I don't think that's a big deal.

**Vice Chairman Kasper:** Moves to adopt the amendments that the builder proposed.

**Representative Nathe:** Second.

**Chairman Keiser:** Discussion?

**Representative N Johnson:** I'm going to resist the amendments, partly because of the emergency clause. When I heard this bill and the complaints that I'm hearing are that they are not fast enough. They are busy now. Changing the board is not going to change what the appraisers are going to do out in the field. Adding an emergency clause just says that some of the people on the board now have to get off and we are putting people on the board who aren't part of the industry.

**Vice Chairman Kasper:** Where does the amendment make the board member resign right now?

**Representative N Johnson:** With the emergency clause, the governor couldn't appointment somebody who had been on there for more two consecutive five year terms. The governor would have until July 1 to make the appointment, the emergency clause, when this goes into effect, that individual would be off.

**Vice Chairman Kasper:** If that is Representative N Johnson only objective, I would offer amended amendment and remove the emergency clause, then move the amendment.

**Chairman Keiser:** We have a friendly amendment that Vice Chairman Kasper moved the proposed amendment with the exception of the emergency clause.

**Chairman Keiser:** Further Discussion?



**Chairman Keiser:** I wish I had more information, but I'm concerned about the precedence it sets. Our boards are consisting of the professionals on that board, I think. I know for the law group, I believe attorneys are on the board, but they do have for complaints a separate review committee that is appointed that reviews complaints. I can assure you, that if you brought in a bill, nurses and chiropractors would also want to be on the Medical board but can't do it there, why here?

**Vice Chairman Kasper:** I don't know is that in fact the rule for that board?

**Chairman Keiser:** All I know is that there needs to be appraisers on the board.

**Representative Nathe:** I do have in my notes, Mr Ibach had no problem with the new board makeup and that was one of my questions.

**Representative Ruby:** Except for the term limiting, that's the thing I have a concern with.

**Roll call was taken on adopting the Home Builder's amendment but removing the emergency clause on SB 2187 with 8 yeas, 6 nays and 0 absent. Amendment carries.**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2187  
March 16, 2011  
15608

☐ Conference Committee

Committee Clerk Signature

*Ellen Helang*

### Explanation or reason for introduction of bill/resolution.

North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards

### Work Session Committee Minutes:

**Chairman Keiser:** Opens the hearing on the work session on SB 2187.

**Chairman Keiser:** We have the appraiser bill. We put the one amendment on it minus the emergency clause but we also had the Farm Credit amendment that they wanted added to the financial list.

**Vice Chairman Kasper:** After our break, I talked with Claus Lembke about the length of time it requires to be an apprentice and being able to have a board member be the mentor. I am wondering if he found any information.

**Claus Lembke:** I have not heard back.

**Chairman Keiser:** We might ask the appraisal board for their input on that and if we don't know, we can hold it until we get that information. I don't know who will speak for the appraisal board but the basic question was "can the state do something other than the two year apprentice program" or is that a federal guideline?

**Joe Ibach:** There is no latitude what so ever. The guidelines for the apprentice and license are all spelled out in the foundations appraisal qualifications board manual, every state has to work with the same criteria. If you tweaked or changed any of the requirements, they could come out, audit us and if they find us to be non-compliant, pull the appraisal certification program from the state and you couldn't get a loan in the state of North Dakota. It's that specific and any changes has to come out on the national level.

**Chairman Keiser:** The two years, that is in the national code.

**Representative Gruchalla:** That training requirement is it 2000 hours or is it two years?

**Joe Ibach:** It's different for each level.

**Vice Chairman Kasper:** Is there any latitude on who the apprentice reports to or could it be the board?

**Joe Ibach:** Is the question, could I work as an apprentice under the board?

**Vice Chairman Kasper:** Yes.

**Joe Ibach:** My initial reaction would be no. They would have get experience.

**Chairman Keiser:** Is there any other ways to increase apprentices that the board has had any discussion of?

**Joe Ibach:** Other than appraisers hiring apprentices, I just can't think how that could be enhanced. We are working on developing a supervisory apprentice program where we can get the supervisory appraiser and the apprentice appraiser in the classroom set to tell them what to do. We are working on that program.

**Representative Kreun:** You mentioned in the cost, how much does it cost to train an apprentice?

**Joe Ibach:** Best guess, break even for the first year, beyond that, the second year it becomes a revenue generator for both.

**Representative Kreun:** Would some kind of enhancement be an incentive for the appraiser to take on an apprentice?

**Joe Ibach:** It's a thought.

**Representative Kreun:** We are dramatically short of appraisers and how will we get them into the system? I think there will be a demand in the future also and it would behoove us to try to solve this problem.

**Joe Ibach:** Up until a few years ago, there was a balance for most properties.

**Representative Kreun:** If you have in sheer percentages, if you have 10% who want to do it and if you have 100, you have 10, if you have 200, you have 20 to meet the demand. There is a huge demand, it's been around and it's not going away.

**Representative N Johnson:** There was a thought about adding on each appraisal \$20 and putting that into the pool to help provide funding to set up an apprentice programs. Would that work?

**Joe Ibach:** My first reaction about applying on a surcharge appraisal fee; I don't think it will go over really well because that gets passed to the consumer. It would be better to look at our fees to the appraisers and increase them, but passing on the appraisal fee, that's food for thought.

**Representative Boe:** This experience for 2000 hours, is under supervision?

**Joe Ibach:** That correct.

**Representative Boe:** When I move to the next step for the 2500, that's 500 more hours or is that 2500 more hours?

**Joe Ibach:** That 500 more hours.

**Representative Boe:** Is that supervised or am I able to go out on my own and do that 500 hours?

**Joe Ibach:** That's supervise also.

**Representative Boe:** So then, up to the three thousand is also supervised?

**Representative Frantsvog:** The only way I could become an appraiser is to find some licensed appraiser to hire me, is that correct?

**Joe Ibach:** It is any industry that hires appraisers. There are other avenues they could pursue?

**Representative Frantsvog:** Do you know how many are in training?

**Joe Ibach:** 44 apprentices.

**Chairman Keiser:** Those buyouts in Fargo are a different thing, it's a whole new ballgame and they are not going to pay you what it's worth.

**Representative Kreun:** It has to be done, we have a problem.

**Chairman Keiser:** The city of Fargo, the city appraiser did the appraising and you can go and hire a private appraiser.

**Representative Kreun:** You can't use a city appraiser.

**Chairman Keiser:** They came up with their value and said if you don't like it, you can go out and get your own.

**Representative Kreun:** That a voluntary buy out not an appraised buy out.

**Chairman Keiser:** That's their definition of voluntary.

**Representative Kreun:** You don't have to follow that.

**Chairman Keiser:** No, you can go out and try to find one, then go to court.

**Representative Kreun:** They have to find one for you.

**Chairman Keiser:** Then go to court.

**Representative Kreun:** No you can still go and do it with another appraiser.

**Vice Chairman Kasper:** I would like to hold this to see if the committee can come up with something to address the situation.

**Representative Nathe:** Can we move the North Dakota Farm Credit amendments?

**Representative Nathe:** Moves to adopt the North Dakota Farm Credit amendments.

**Representative Vigesaa:** Second.

**Chairman Keiser:** Further discussion?

**Vice Chairman Kasper:** Could you give us a brief overview of the amendment.

**Chairman Keiser:** It adds North Dakota Farm Credit as one of the possible appointees to the pool. Further discussion?

**Voice vote taken, motion carried.**

**Chairman Keiser:** We now have two amendments on the bill.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2187  
March 23, 2011  
15895

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

North Dakota real estate appraiser qualifications and ethics board and appraiser permit approval standards

### Work Session Committee Minutes:

**Chairman Keiser:** Opens the work session on SB 2187.

**Representative N Johnson:** This one was brought in by the appraiser group and it amends on page 3, section 3, says that they still have 30 days that they will act upon it. If someone comes in for reciprocity approval, but they find grounds for denial in other states, they don't have to approve it within that 30 days. It give them a chance to come in and look at that.

**Chairman Keiser:** Any questions on that amendment?

**Chairman Keiser:** Under the current law or with this amendment, what happens if you don't take action?

**Joe Ibach~North Dakota Appraiser Board:** We take action on every application as soon as possible.

**Chairman Keiser:** Let's say there's a snafu and no action is taken, then what?

**Joe Ibach:** If no action is taken?

**Chairman Keiser:** Do they automatically get licensed?

**Joe Ibach:** No, we will take action on it. If it get misplaced...

**Chairman Keiser:** They are going to call, but it won't be for 90 days. The time period have elapsed, then what's the penalty?

**Joe Ibach:** There is no penalty because there was no action taken.

**Chairman Keiser:** But it says that you must take action within 30 or 60 days.

**Joe Ibach:** We get an applicant for reciprocity from another state.

**Chairman Keiser:** You have to take action in 30 days unless there is some cause.

**Joe Ibach:** Right, we find a cause.

**Chairman Keiser:** Let's say your board doesn't meet for 31 days and there was no cause, now what? Obviously, you are going to be outside that window.

**Joe Ibach:** If this stays the way it reads, that we would be very conscious as to when it was received, we would have a date stamp and it would be our administrator's responsibility to make sure something happens.

**Chairman Keiser:** I'm raising this issue, you have 5 people apply, does that mean that you have 5 meetings? You would bunch them up and hope you have a normal meeting, but if you don't you do it by telephone?

**Joe Ibach:** Yes, we will normally do that on conference telephone.

**Chairman Keiser:** You would meet these deadlines?

**Joe Ibach:** We would try and that's why we initially had 60 days in there just because of that question.

**Representative Ruby:** Would that open you up to civil litigation?

**Joe Ibach:** I don't know, I'm not an attorney.

**Vice Chairman Kasper:** If your action was to take no action, does that meet what this bill says?

**Joe Ibach:** We will always take action, we don't let something just die.

**Chairman Keiser:** You actually take action to table it?

**Joe Ibach:** That's correct.

**Chairman Keiser:** Now you are not acting within 30 days. If there is no problem with the form, could you act to table it?

**Joe Ibach:** The question is in that 30 days was action taken; my response would be that action was taken.

**Vice Chairman Kasper:** My question is do you consider doing nothing taking action or do do you make a decision on the application, we either approve or do not approve, and notify the person of that decision. Do you have the option to do nothing?

**Joe Ibach:** If the application comes in and we find that everything is in order, we will approve. If the application comes in we find that there's a red flag, depending what the red flag is, we will table or deny until we get the information as to why there is a red flag. Normally we can find that out in a very short time because every state will have a record as to why it was red flagged.

**Vice Chairman Kasper:** You find a red flag, 6 days after the 30 days, then how long before the date, you find the red flag and let's say it's a positive resolution, do you take action again and approve the application?

**Joe Ibach:** That brings a good question, when does the 30 days start? Does the 30 days start from the initial application or does it start from one that was tabled because we found a red flag. Based on the amendment before us, I don't know what that answer would be. The action could be tabled because we have found a red flag, so it would be my interpretation we would be another 30 days from the date it was tabled.

**Chairman Keiser:** It does say that has to be taken within 60 days, so I don't know?

**Representative Boe:** What kind of problems would we run into if we put a requirement at the end of 30 days, we give them a provisional license until the application is thoroughly processed?

**Joe Ibach:** I would have a problem especially if the red flag was serious.

**Representative M Nelson:** On the spreadsheet that you provided, there was the case where they got their license in December and you said that you would hold it until January 1 before actually giving them the license; you don't pro rate his fees, so he pays for an entire year's licensure potentially for a couple weeks. Under this, if the person sent his license in at Thanksgiving, would you interpret this that you issue the license on Christmas Day and he pays for a whole year's fee?

**Joe Ibach:** I'll give Jodi that question. She answers I'll give them the option.

**Chairman Keiser:** Any comments on this amendment?

**Representative M Nelson:** The copy of the bill I have seem to have a section that really deals with this amendment but it's written quite differently, I don't understand where we are working from?

**Representative N Johnson:** The one that I handed out to you, after the bill went through the senate, I believe the group from the appraisers board looked at it and they wanted to include that language about the grounds of denial. Their legal counsel wrote up this amendment that put in that part of it. That's where it came from.



**Representative M Nelson:** It looks to me that we already had the within 30 days of receipt of the completed application where this puts within the filing of a completed application, I know what a receipt of an application but I'm not sure what filing an application is. I was wondering why we were amending it?

**Representative N Johnson:** The attorney for the appraisal board was adamant about the language. I don't know.

**Representative M Nelson:** The denial under section 42, makes a lot of sense to me. It's the rest of the word I don't understand.

**Vice Chairman Kasper:** I have a problem with the amendment the way it is because we could have a perpetual tabling of an application and it would never be acted on. I am wondering if we should add something in here to the effect that regardless of the above, the board must take final action in either accept or reject the application within 90 days of it being submitted to the board. Therefore, we have a certain point in time, that regardless of all the red flags, the person will know his or her fate.

**Chairman Keiser:** Any thought from committee members? What are the wishes of the committee?

**Vice Chairman Kasper:** Moves to amend the amendment 43-23.3-04.1 and I would like to add after application, "regardless of the above time line, the board must take final action on the application and either approve or reject the application within 90 days of the receipt by the board and notify the applicant of their action in writing".

**Representative Frantsovog:** I think here what is being suggested here is the maximum of 90 days means that every application that's submitted, could be held for 90 days because it's a matter of tabling it twice, so that every applicant would take 90 days to be processed.

**Chairman Keiser:** In a way it does give them in a way, more flexibility.

**Vice Chairman Kasper:** I agree, it could be that long but on the other hand it could 3 years without any certainty of a deadline. I pulled 90 days out as a reasonable time, but if the committee is more comfortable with 60, 70 or 45 days, I would be comfortable. I want it to be clear that there is a definite point in time after that application is received, that a final decision and the applicant is notified.

**Chairman Keiser:** If you look at that paragraph, the second to the last line, after shall, to strike "take action on" and replace it with "the board shall issue or deny the application". That's a little simpler language and I do want to add to that "inform the applicant of the board's decision".

**Representative M Nelson:** Was the amendment ever moved originally. We are amending an amendment that has not been moved.

**Chairman Keiser:** That's correct.

**Representative M Nelson:** Is the "shall issue or deny" in the first line or on the last line?

**Representative N Johnson:** I think on that first line it's saying that if you are good standing, they shall issue.

**Chairman Keiser:** That's the reciprocity part.

**Representative N Johnson:** The other part is they have something hanging out.

**Chairman Keiser:** We should leave the 60 days, you do want them to do reasonably due diligence on checking somebody out. We have a modified purposed amendment, what are the wishes of the committee on this amendment?

**Vice Chairman Kasper:** I would move the amendment as modified.

**Representative Vigesaa:** Second.

**Voice vote, motion carried.**

**Representative N Johnson:** (Goes over amendment 11.0082.0200b). The second amendment that I'm purposing deals with the board make up and the second thing I'm passing around is a listing of the occupations & professions and the recap of the board terms and makeup. I wanted you to take a look at the total number of board members and how many are industry, public and other. There are some that are totally made up of members of the professions. Some have varying amounts. I think it's important to leave the appraiser's board alone. Their main functions are to give certification and licensure certification to appraisers. At this point, it appears mostly federal. Their second duty from what I understand is to be able to discipline the individuals if there is a complaint. They have also added the responsibility to do the education. The amendment you have puts the board back into the same 5 positions that it has now, it includes the agricultural property appraisal, North Dakota Farm Credit, doesn't change the term limits and that all board meetings will be posted and notice given.

**Chairman Keiser:** This also has the term limitation?

**Representative N Johnson:** Yes and it still says that they must establish the standards for approval and disapproval of permits. It still increases letting the individuals know why they are disapproved and keep that list going of minutes and activities.

**Chairman Keiser:** Any other questions for Representative N Johnson?

**Representative N Johnson:** Since we did the section, the last paragraph should be deleted.

**Vice Chairman Kasper:** I like the changes in this amendment starting number 2 on page one, but I'm going to oppose the amendment going back to the original makeup of the board. I think we heard enough testimony from the builders and the realtors that there is a problem on the board. The bill as it was, the appraisers have the majority and the appraisers would retain control of the board. I will support part of the amendment but not all of it.

**Chairman Keiser:** Is there a motion?

**Representative N Johnson:** I would move the adoption of the amendment 02000b with the exception of the last paragraph.

**Representative Boe:** Second.

**Chairman Keiser:** Further discussion?

**Vice Chairman Kasper:** I would like to make a motion to amend the amendment that we are considering. My motion would be that on page 1, where it begins with the governor and goes down to 1-b, where the last sentence says entities may submit two names of candidates to the governor, we would strike that section of the amendment.

**Chairman Keiser:** You are striking all of 1, a & b?

**Vice Chairman Kasper:** That's correct. I move to further amend the amendment.

**Chairman Keiser:** If we removed that from this, then the old law is still there. You have to amend this back in.

**Vice Chairman Kasper:** Yes, but if we remove section 1, it goes back to what is already there.

**Chairman Keiser:** Further discussion? We have a motion to further amend.

**Representative Frantsvog:** Second.

**Roll call was taken for the further amend with 3 yeas, 9 nays, 2 absent, motion failed.**

**Chairman Keiser:** We are back to the original amendment.

**Roll call was taken for amendment 11.0082.0200b with 9 yeas, 3 nays, 2 absent.**

**Vice Chairman Kasper:** I want to consider a divided report of the amendment on the floor.

**Chairman Keiser:** You make a motion to divide the amendment and then we need three people to support the motion.

**Vice Chairman Kasper:** Is it your intent to move this bill out quickly?

**Chairman Keiser:** Oh, yes.

**Roll call was taken for a divided report with 3 yeas, 9 nays, 0 absent.**

**Chairman Keiser:** There will be a division on the floor. What are the wishes of the committee?

**Representative N Johnson:** Moves a Do Pass as Amended on SB 2187.

**Representative Boe:** Second.

**Roll call was taken for a Do Pass as Amended on SB 2187 with 10 yea, 2 nay, 2 absent and Representative Nathe is the carrier.** (Representative Frantsvog spoke immediately after the work session indicating that he voted wrong by mistake, switching from yea to nay). **Vote is not 9 yea, 2 nay, 2 absent.**

**Doreen Reidman~North Dakota Association of Builders:** I want to be clear on our amendment was adopted the other day. The amendment was to put a builder and a realtor on the board except the emergency was taken off. If the bill gets passed now with Representative N Johnson's amendments, the minority report is in place with our amendment on? If the minority report passes, then it would that amendment passes? Correct?

**Chairman Keiser:** That amendment was on the bill, I think technically Representative N Johnson's is to further amend the bill.

**Representative Boe:** What her point is that as the bill came to us before we further amended it, had been amended to the language they had. What the minority report would look like what we had amended prior to this language.

**Chairman Keiser:** I will check it out and make sure it is whatever it is.

**Doreen Reidman:** I just want to make sure, because it was adopted the other day.

**Chairman Keiser:** We are going to have to check.

**Doreen Reidman:** My concern is that I need to inform my members what the vote that is being taken on and how they should communicate with legislators.

**Chairman Keiser:** We will have to get clarification. It will have to go through legislative council before it goes to the floor.

**Representative Ruby:** Even though we adopted that amendment the other day, what we just adopted now, if it affects those areas, it has super cedes the previous amendment.

**Chairman Keiser:** We will have Legislative Council answer these questions.

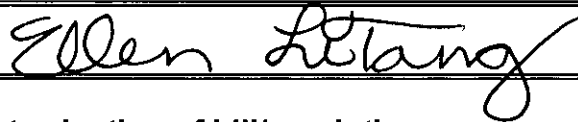
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

SB 2187  
March 28, 2011  
15895

☐ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

**Chairman Keiser:** Opens the work session on SB 2187.

**Chairman Keiser:** Passes out 03001, that's the majority amendment and 03002, when you get to the second set of amendments, that is the minority report amendment. We are going to have to reconsider our passage of the minority amendment. We need three people who voted against the majority to vote for the minority amendment. Everybody votes but only yeses count if you voted against the bill or were absent. There are only five people who can count and Representative Boe is absent.

**Representative Ruby:** Moves to reconsider SB 2187.

**Vice Chairman Kasper:** Second.

**Voice vote, motion carries.**

**Chairman Keiser:** We previously adopted the homebuilder's amendment. In all intents and purposes, reversed the previous amendment and it was adopted by the committee. Therefore, that is where the bill is now. Representative N Johnson why don't you go over your majority amendment.

**Representative N Johnson:** (Reads 03001). What we adopted from 0200b, this is a switch, so what we adopted, didn't come through on this, so this is an error.

**Chairman Keiser:** In what way?

**Representative N Johnson:** On what we adopted, the Dakota Banker's Associations, plural and it was singular here.

**Chairman Keiser:** That plural is already adopted, so it's a typo.

**Representative N Johnson:** My amendments put it back to the original board makeup. Section 2, my amendments did not change and that was for setting up term limits. Where

my amendments did change was on the bottom of page three, that where the board will give an approval within 30 and grounds for denial and they would have up to 60 days to check out the application.

**Chairman Keiser:** Retuned it to the original board?

**Representative N Johnson:** Yes, but allowed the duties to report, give notice to approve or disapprove, keeping people more informed and what I did change was allowing them extra time if their application if there was some grounds for denial in another state, that they had more time for that application.

**Chairman Keiser:** Vice Chairman Kasper can now go over the minority report.

**Vice Chairman Kasper:** I'm not going to pursue the minority report.

**Chairman Keiser:** If not, the bill will be going out as amended, we don't need further action. Closes the work session on SB 2187.

Date: March 16, 2011Roll Call Vote # 1  
am

## 2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187House House Industry, Business and Labor Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt AmendmentMotion Made By Rep Kasper Seconded By Rep Nathe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/	/	Representative Amerman	/	
Vice Chairman Kasper	/		Representative Boe		/
Representative Clark	/		Representative Gruchalla		/
Representative Frantsvog	/		Representative M Nelson	/	
Representative N Johnson		/			
Representative Kreun		/			
Representative Nathe	/				
Representative Ruby		/			
Representative Sukut	/				
Representative Vigesaa	/				

amendment by the builders + home builders  
removing the emergency clause

Total Yes 8 No 6

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: March 16, 2011

Roll Call Vote # 1  
p.m.

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Nathe Seconded By Rep Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

adopt Farm Credit Amendment

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

voice vote, motion carried



**43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.** The board ~~may~~ shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and grounds for denial of the application under section 43-23.3-18 do not exist. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state. Within ~~sixty~~ days of filing a completed application, the board shall take action on the application. *thirty*

*N. Johnson*

Date: March 23, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Kasper Seconded By Rep Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

<sup>as</sup>  
voice vote - motion passes

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

strike take action  
applicant the decision  
modification

issue + inform

Date: March 23, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
further amend.

Motion Made By Kasper Seconded By Fra.

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		<input checked="" type="checkbox"/>	Representative Amerman	<u>Ab</u>	
Vice Chairman Kasper	<input checked="" type="checkbox"/>		Representative Boe		<input checked="" type="checkbox"/>
Representative Clark		<input checked="" type="checkbox"/>	Representative Gruchalla		<input checked="" type="checkbox"/>
Representative Frantsvog	<input checked="" type="checkbox"/>		Representative M Nelson	<input checked="" type="checkbox"/>	
Representative N Johnson		<input checked="" type="checkbox"/>			
Representative Kreun	<u>Ab</u>				
Representative Nathe		<input checked="" type="checkbox"/>			
Representative Ruby		<input checked="" type="checkbox"/>			
Representative Sukut		<input checked="" type="checkbox"/>			
Representative Vigesaa		<input checked="" type="checkbox"/>			

voice vote - motion failed

Total Yes 3 No 9

Absent 2

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

failed

further amend

striking all of 1 a+b

March 23, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2187  
AMENDMENTS ARE IN CONTEXT AND HIGHLIGHTED

**43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.**

1. The governor shall appoint the board. The board must consist of ~~seven~~ five members. One member must ~~be a representative of the appraisal management company industry~~ be a representative of the public, one member must be a representative of the financial industry, ~~one member must be a representative of the builder industry or must be a realtor~~, and ~~four~~ three members must be appraisers, at least one of which is experienced in the appraisal of agricultural property.
  - a. Each appraiser member of the board must be either a licensed or certified appraiser, but at least two of the appraiser members must be certified appraisers.
  - b. The governor shall appoint the financial industry ~~who must have a background in the real estate lending process~~ from a list of qualified individuals submitted by the North Dakota bankers associations ~~and the mid-America credit union association and the North Dakota Farm Credit system associations~~. Each of these entities may submit two names of candidates to the governor.
2. The term of each member is five years. A member may not serve more than two consecutive five-year terms, after which at least two years must pass before the governor may reappoint that former member to the board. The governor shall appoint members so the terms of no more than two members expire each year. A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a board member for cause.
3. Annually the members shall elect a chairman from among the members. At least two of the members who are appraiser members must be present in order for a quorum to exist. The members are entitled to receive compensation for each day actually engaged in the service of the board and actual and necessary traveling expenses at the rate allowed other state officials, paid from the fees collected by the board.

**43-23.3-03. Powers and duties of the board.**

1. The board, or the board's designated representative, shall:
  - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser; determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter; establish application procedures; and establish standards for approval and disapproval of applications for permits.
  - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.
  - c. Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.

- d. Discipline permittees.
  - e. Hold meetings, hearings, and examinations in places and at times as the board designates and maintain records of board activities.
  - f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.
  - g. Adopt rules that clearly and concisely establish the standards for approval and disapproval of applications for permits. The rules must include a requirement that an application disapproval clearly specify the basis for the disapproval.
  - h. Keep permittees informed of board activities, including providing notification of board member terms and any upcoming board vacancy; internet posting of quarterly meeting notices and minutes; and internet posting of proposed and final rule changes.
2. The board, or the board's designated representative, may:
- a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
  - b. Contract for services necessary to carry out this chapter.
  - c. Enter reciprocity agreements with other states
3. The board, or the board's designated representative, may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board. Board investigative files are exempt records as defined in subsection 5 of section 44-04-17.1, but a copy of the investigative file must be provided to a licensee if a complaint is filed against the licensee by the board.

**43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.**

~~Within thirty days of receipt of a completed application, the~~Except as otherwise provided in this section, within thirty days of receipt of a completed application, the board shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state. ~~Within thirty days of receipt of a completed application, the board shall take action on the application of any applicant who has failed to comply with section 43-23.3-~~  
~~18.~~

Date: March 23, 2011

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0082.02006

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Foe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	Ab	
Vice Chairman Kasper		✓	Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson		✓
Representative N Johnson	✓				
Representative Kreun	Ab				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 9 No 3

Absent 2

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: March 23, 2011

Roll Call Vote # 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Kasper Seconded By Rep Frantsvog

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		<input checked="" type="checkbox"/>	Representative Amerman	<u>Ab</u>	
Vice Chairman Kasper	<input checked="" type="checkbox"/>		Representative Boe		<input checked="" type="checkbox"/>
Representative Clark		<input checked="" type="checkbox"/>	Representative Gruchalla		<input checked="" type="checkbox"/>
Representative Frantsvog	<input checked="" type="checkbox"/>		Representative M Nelson	<input checked="" type="checkbox"/>	
Representative N Johnson		<input checked="" type="checkbox"/>			
Representative Kreun	<u>Ab</u>				
Representative Nathe		<input checked="" type="checkbox"/>			
Representative Ruby		<input checked="" type="checkbox"/>			
Representative Sukut		<input checked="" type="checkbox"/>			
Representative Vigesaa		<input checked="" type="checkbox"/>			

Total Yes 3 No 9

Absent \_\_\_\_\_

Floor Assignment Rep Kasper

If the vote is on an amendment, briefly indicate intent:

division for the amendment

VK  
3/23/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2187

Page 1, line 8, remove the overstrike over "five"

Page 1, line 8, remove "seven"

Page 1, line 9, remove the overstrike over "represent the public"

Page 1, line 9, remove "be a representative of the appraisal"

Page 1, line 10, remove "management company industry"

Page 1, line 11, remove "one member must be a representative of the builder industry or"

Page 1, line 12, remove "must be a realtor."

Page 1, line 12, remove the overstrike over "three"

Page 1, line 12, remove "four"

Page 1, line 19, remove "who must have a"

Page 1, line 20, remove "background in the real estate lending process"

Page 1, line 21, overstrike "associations"

Page 1, line 21, remove "and the"

Page 1, line 22, remove "mid-America"

Page 1, line 22, overstrike "credit union"

Page 1, line 23, after "association" insert ", the credit union association of the Dakotas, and the North Dakota farm credit system associations"

Page 3, line 10, remove "quarterly"

Page 3, line 25, remove the overstrike over "The"

Page 3, line 25, remove "Within thirty days of receipt of a completed application, the"

Page 3, line 28, after the first "state" insert ", and if grounds for denial of the application under section 43-23.3-18 do not exist"

Page 3, line 31, after the period insert "Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision."

Renumber accordingly

Majority



VK  
3/23/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2187

Page 1, line 9, overstrike "member must"

Page 1, line 9, remove "be a representative of the appraisal"

Page 1, line 10, remove "management company industry."

Page 1, line 10, overstrike "one"

Page 1, line 11, replace "or" with "; one member"

Page 1, line 21, overstrike "associations"

Page 1, line 21, remove "and the"

Page 1, line 22, remove "mid-America"

Page 1, line 22, overstrike "credit union"

Page 1, line 23, after "association" insert "and the credit union association of the Dakotas"

Page 1, after line 24, insert:

"c. The governor shall appoint the builder industry representative from a list of two qualified individuals submitted by the North Dakota association of builders.

d. The governor shall appoint the realtor representative from a list of qualified individuals submitted by the North Dakota association of realtors."

Page 3, line 10, remove "quarterly"

Page 3, line 25, remove the overstrike over "The"

Page 3, line 25, remove "Within thirty days of receipt of a completed application, the"

Page 3, line 28, after the first "state" insert "and grounds for denial of the application under section 43-23.3-18 do not exist"

Page 3, line 31, after the period insert "Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision."

Renumber accordingly

minority

Date: Mar 23, 2011Roll Call Vote # 5

## 2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2187House House Industry, Business and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt AmendmentMotion Made By Rep Johnson Seconded By Rep Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	Ab	
Vice Chairman Kasper		✓	Representative Boe		✓
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	Ab				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

(Frantsvog changed vote)

Total Yes 9 No 3Absent 2Floor Assignment Rep Nathe

If the vote is on an amendment, briefly indicate intent:

Majority

March 28, 2011

VR  
3/28/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2187

Page 1, line 8, remove the overstrike over "five"

Page 1, line 8, remove "seven"

Page 1, line 9, remove the overstrike over "~~represent the public~~"

Page 1, line 9, remove "be a representative of the appraisal"

Page 1, line 10, remove "management company industry"

Page 1, line 11, remove "one member must be a representative of the builder industry or"

Page 1, line 12, remove "must be a realtor."

Page 1, line 12, remove the overstrike over "~~three~~"

Page 1, line 12, remove "four"

Page 1, line 19, remove "who must have a"

Page 1, line 20, remove "background in the real estate lending process"

Page 1, line 21, remove "and the"

Page 1, line 22, remove "mid-America"

Page 1, line 22, overstrike "credit union"

Page 1, line 23, replace "association" with ", the credit union association of the Dakotas, and the North Dakota farm credit system associations"

Page 3, line 10, remove "quarterly"

Page 3, line 25, remove the overstrike over "~~The~~"

Page 3, line 25, remove "Within thirty days of receipt of a completed application, the"

Page 3, line 28, after the first "state" insert ", and if grounds for denial of the application under section 43-23.3-18 do not exist"

Page 3, line 31, after the period insert "Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision."

Page 4, line 1, remove "The change of the board composition provided for under"

Page 4, remove lines 2 through 6

Renumber accordingly

Date: Mar 28, 2011

Roll Call Vote # 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** 2187

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson		✓			
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigasaa					

voice vote

motion carried

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Reconsider min report

**REPORT OF STANDING COMMITTEE**

**SB 2187, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2187 was placed on the Sixth order on the calendar.**

Page 1, line 8, remove the overstrike over "five"

Page 1, line 8, remove "seven"

Page 1, line 9, remove the overstrike over "~~represent the public~~"

Page 1, line 9, remove "be a representative of the appraisal"

Page 1, line 10, remove "management company industry"

Page 1, line 11, remove "one member must be a representative of the builder industry or"

Page 1, line 12, remove "must be a realtor;"

Page 1, line 12, remove the overstrike over "three"

Page 1, line 12, remove "four"

Page 1, line 19, remove "who must have a"

Page 1, line 20, remove "background in the real estate lending process"

Page 1, line 21, remove "and the"

Page 1, line 22, remove "mid-America"

Page 1, line 22, overstrike "credit union"

Page 1, line 23, replace "association" with ", the credit union association of the Dakotas, and the North Dakota farm credit system associations"

Page 3, line 10, remove "quarterly"

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Page 3, line 25, remove "Within thirty days of receipt of a completed application, the"

Page 3, line 28, after the first "state" insert ", and if grounds for denial of the application under section 43-23.3-18 do not exist"

Page 3, line 31, after the period insert "Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision."

Page 4, line 1, remove "The change of the board composition provided for under"

Page 4, remove lines 2 through 6

Renumber accordingly

**2011 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**CONFERENCE COMMITTEE**

**SB 2187**

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2187  
April 12, 2011  
16511

☒ Conference Committee

Committee Clerk Signature

*Katie Oliver*

**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

*No testimony attached*

**Chairman Dever:** Would the House like to go through the amendments?

Representative Nathe then explained the amendments as they were put into SB 2187 in the House.

**Chairman Dever:** I think that some of that was already included in the Senate version.

**Representative Nathe:** Yes.

**Chairman Dever:** I see that in section 2 you struck the word quarterly on the internet postings of meeting notices and minuets. I think that part of the Senate's concern with the meeting notices was simply that some of the meetings are held by telephone and there are to deal with an application.

**Representative Vigesaa:** The only recollection that I have is that we took out quarterly was that then all meeting notices would be on there.

**Chairman Dever:** I think that the Senate's consideration of that was that sometimes they get an application in right away and they don't have time to inform the public.

**Senator Nelson:** We have version 2 which 'quarterly' wasn't mentioned and then we have version 3001 where 'quarterly' was crossed out which is the first engrossment of the Senate bill. So it got crossed off when we were working on it.

**Chairman Dever:** If we were to go back through the differences, it appears to me that one of the differences now is the makeup of the board. Another difference is the reference to the different financial institutions and I don't really have a problem with that.

**Senator Nelson:** So the major issue is the number of people on the board.

**Chairman Dever:** That is the major issue.

**Senator Nelson:** Could someone from the House explain why you went back to 5 members?

**Representative Vigesaa:** This is the board for the appraisers and I think that they should be on it. I know that there are other people who want to be on the board. We think that the governor could appoint someone from the various industries to serve on the board. We just felt that the appraiser board should be made up of appraisers.

**Chairman Dever:** The board could be defined as including people that have transactions with the appraisers.

**Representative Nathe:** The appraiser board takes care of the licensing and regulation of the appraisal industry. We feel that the people that would be interested in being on this board would have an opportunity to get on via the public seat that is there. If they don't like the members who are on there they can lobby the governor, get their own candidate on there.

**Chairman Dever:** Part of my concern is that there are an awful lot of people who have expressed concern specifically the timeliness with in which they do it.

**Representative Gruchalla:** If the board does need a shakeup, by putting an emergency clause in here, it would start the turnover of the board members quicker.

**Chairman Dever:** So the House is not interested in additional member on the board.

**Representative Nathe:** The transparency communication will hold the board more accountable. They have to make the information more public, all things that they were not doing prior to this.

**Senator Sorvaag:** I think that the 7 opens up there are a lot more variables, what this board does and how they do it has a huge affect on their bottom line.

**Senator Nelson:** Back when we were discussing this I also thought that you didn't need a fox outside the hen house; I can't imagine why they want to be on the board other than the fact that they want change. Extending the term limits so everyone starts at ground zero.

**Chairman Dever:** Some of the appointments to the board go through the governor's office and they have a responsibility to be more aggressive.

**Representative Nathe:** Any thoughts on Representative Gruchella's suggestion to adding an emergency clause in section 4?

**Chairman Dever:** The Governor's office makes those appointments.

**Representative Vigesaa:** I believe that there is an appointment that is due in June of this year so if there wasn't an emergency clause on it and it became effective it would be appointments August 1<sup>st</sup>.



**Chairman Dever:** The reference to term limits is in section 1 subsection 2.

**Senator Nelson:** On line 10, do we have a definition of cause?

**Representative Nathe:** I am not aware of any.

**Chairman Dever:** What would the House think about adding 2 members to the board with a sunset clause 2 years from now?

**Representative Vigesaa:** I think that we would rather see how it goes for 2 years and then re visit it next session.

**Chairman Dever:** In defense of the board it seems to me that some of the factors that play into this are beyond their control with the way the market is with low interest rates and more appraisals being necessary. Some of that might improve within the next 2 years also.

Senator Nelson then made a motion that the House recede from their amendments and further amend the bill with a second by Representative Gruchalla. There was no further discussion, roll was taken and the motion passed 5-1.

Chairman Dever Then closed the conference committee on SB 2187.

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Government + Veterans Affairs

Bill/Resolution No. 2187 as (re) engrossed

Date: 4/12/11

Roll Call Vote #: 1

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☒ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Nelson Seconded by: Gruchalla

Senators				Yes	No		Representatives				Yes	No
<u>Devel</u>	<u>x</u>			<u>✓</u>			<u>Nattho</u>	<u>x</u>			<u>✓</u>	
<u>Sauvage</u>	<u>x</u>				<u>✓</u>		<u>Vigerson</u>	<u>x</u>			<u>✓</u>	
<u>Nelson</u>	<u>x</u>			<u>✓</u>			<u>Gruchalla</u>	<u>x</u>				

Vote Count: Yes 5 No 1 Absent \_\_\_\_\_

Senate Carrier Devel House Carrier Nattho

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2187, as engrossed:** Your conference committee (Sens. Dever, Sorvaag, Nelson and Reps. Nathe, Vigesaa, Gruchalla) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 1052, adopt further amendments as follows, and place SB 2187 on the Seventh order:

That the Senate accede to the House amendments as printed on page 1052 of the Senate Journal and pages 1184 and 1185 of the House Journal and that Engrossed Senate Bill No. 2187 be further amended as follows:

Page 1, line 3, remove the third "and"

Page 1, line 3, after "application" insert "; and to declare an emergency"

Page 4, after line 11, insert:

**"SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed SB 2187 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2187



I am in support & ask for your yes vote on SB2187. I have been a rural real estate appraiser in North Dakota for the past 33 years. My experience in the industry includes appraising residential properties and income producing properties including apartments, commercial real estate and farms. The majority of my assignments are in rural North Dakota. These are the specific items I strongly support in the mentioned senate bill.

- Term limits are good. Perhaps more faith could be established in the North Dakota Appraisal Qualification and Ethics Board if the representation changed timely producing varied input. It is common for boards of political appointees to have terms. You legislators have terms and you are held accountable. Often judges don't have terms, but the appraisal board is not the bench.
- Adding a rural appraiser is essential. I am not so sure about the make- up of the board, but there should be rural representation. (comments follow)
- 1 G 42-23.3-03 1)g This is the greatest problem that is occurring. People (appraisers & their associates) don't trust the subjective analysis of the board's actions on approving or disapproving appraisers. Rules need to be adopted that fairly without prejudice clearly and concisely specify the basis for disapproval and approval.

The intent of this testimony is positive – an attempt to improve the existing legislation of real estate appraising in North Dakota is most important to me, a rural appraiser from North Dakota. *I must voice my opinions as this profession has been good to me. I must be honest with you and myself.* Many appraisers have concerns, but won't speak up. They are intimidated by the board and fear they will be targets of retribution. This fear is probably unjust, but it exists. The North Dakota Appraisal Qualification and Ethics Board (shorten to "board") needs these changes (SB 2187) to produce a better appraisal climate in North Dakota and especially rural North Dakota. The board should be the biggest supporters of this bill. If not, could the reason be self serving and not for the good of the real estate appraisal profession? Currently the public relations of the board and the feelings about the board and the appraisal profession in general is the worst I can remember. You need to improve these problems and this bill is a well thought out excellent start. You can fix and improve the Real Estate Appraisal profession in North Dakota, which is your elected duty.

The strong economy I daily refer to in my appraisals as "market conditions" is mainly the result of our rural agricultural economy. North Dakota's Q & E Appraisal Board has never had an appraiser on the board from a rural location. The closest person on the board from a rural area was from Devils Lake, pop 7,222, and that ceased in 1997. These appointed political positions need some direction and this bill accomplishes this for rural North Dakota. The bill being proposed requires an appraiser from rural ND (a town of less than 4,000 population). Generally, RE appraising in rural ND is part of the required financing procedure package. There are other reasons for appraisals, but mainly for mortgage transactions. It is difficult to appraise in sparsely populated rural ND, but the need exists and this need deserves high quality timely appraisals. Rural North Dakota is the driving force of North Dakota's strong economy and we deserve a voice on the "board".

I believe in most instances the ND Appraisal Qualification and Ethics Appraisal Board is sincere and doing a very good job for the appraisal profession in North Dakota. This bill only insures a better appraisal profession and is addressing the concerns of appraisers and other interested parties in North Dakota. Again I urge your support of SB 2187.

Thank you for this form. If you have additional questions, I would be willing to respond.

Alicia Vorland, CG#1069

## Senate Bill 2187

### Testimony of Senator Curtis Olafson

I was prompted to introduce this bill after hearing of numerous complaints about the North Dakota Real Estate Appraisal Board from appraisers in our state. It is important for you to know that all of the co-sponsors were anxious to sign on to this bill and they conveyed to me that they were hearing the same complaints that I was hearing. In introducing this bill, I am not in any way asking that the Board relax their standards for licensing appraisers in North Dakota or to do anything that would diminish the integrity or work product of the industry. All I am asking is that the Board treat our citizens fairly, equitably and respectfully. I don't think that is too much to ask.

I would also like to make the committee aware of something that I find deeply troubling. I have been told from more than one source that there are numerous appraisers around the state who would have liked to have come in to testify in support of this bill, but they are afraid to do so because they fear retribution from the Board.

The most frequent complaint that I heard related to the Board's denial of license applications. When that happened, the applicant would be told that their application was denied because their appraisals were not compliant with the Uniform Standards of Professional Appraisal Practices. The following is a Wikipedia definition of the standard: "Uniform Standards of Professional Appraisal Practice, commonly referred to by the acronym USPAP, can be considered the quality control standards applicable for real property, personal property, intangibles, and business valuation appraisal analysis and reports in the United States and its territories."

After having their application denied, the applicant would then ask what specifically was wrong with their appraisals that made them not compliant with the USPAP and the reply they received can be paraphrased as "we don't have to tell you." I have submitted for your review a letter from the Board's attorney in response to a request I initiated through the Governor's Legal Counsel requesting a definition of what comprised "substantial compliance" with the USPAP. The Board's answer to the Governor's Legal Counsel and to me was, "we don't have to tell you." I don't think it is unreasonable to ask that any professional licensing Board provide a detailed explanation for the reason why an applicant has been denied a license. I have asked



professionals in other disciplines whether applicants in their field are given a specific reason if their license application is denied. Their answer invariably is "absolutely."

You will be hearing testimony from those in associated industries who are also concerned about the function of the Board. Their livelihoods are tied to the appraisal industry functioning in an efficient and timely manner. They would not be here if there was not a problem that needed a solution.

I would ask for your support of Senate Bill 2187.



Wayne Stenehjem  
ATTORNEY GENERAL

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(701) 328-3640 FAX (701) 328-4300

October 1, 2009

Senator Curtis Olafson and Ryan Bernstein, Legal Counsel to the Governor, requested that the North Dakota Real Estate Appraiser Qualifications and Ethics Board consider providing you with a definition of "substantial compliance" with the Uniform Standards of Professional Appraisal Practices. The Board considered the matter at their recent meeting, but decided not to provide a definition of "substantial compliance".

The term "substantial compliance", is not used in the law or rules. See, e.g., N.D.C.C. §§ 43-23.3-18 ("shall comply"), 43-23.3-22(1)(f) ("violated"), N.D. Admin. Code §§ 101-02-02-02(4) ("follow"), 101-02-02-06(5) ("compliance with" and "must meet"), 101-03.1-01-01(2) ("failure to comply"). As a result, it would serve no purpose to define "substantial compliance".

It is the Board's position, however, that if violations of USPAP are of such number or magnitude to render an appraisal misleading or unreliable, the appraisal does not comply with USPAP. It is the methodology and completeness which create a credible appraisal necessary for compliance with USPAP. Whether the ultimate determination of value is accurate, does not determine USPAP compliance. The Board has consistently applied this standard in determining whether appraisals comply with USPAP.

Sincerely,

Bill Peterson  
Assistant Attorney General

jjs  
cc:

Real Estate Appraiser Qualifications and Ethics Board  
Ryan Bernstein, Governor's Office  
Senator Curtis Olafson

VOUCHER ACTIVITY 4

Unit	Agency Name	Voucher	Acctg Date	Account	Vendo	Name	Sum/Amount
22600	Land Dept.	00000927	12/6/2005	621045	0000004637	DAKOTA APPRAISAL & CONSULTING INC	\$ 7,500.00
53000	Dept. of Corrections	00000486	3/4/2005	621045	0000004637	DAKOTA APPRAISAL & CONSULTING INC	\$ 9,000.00
53000	Dept. of Corrections	00002941	1/4/2007	621045	0000004637	DAKOTA APPRAISAL & CONSULTING INC	\$ 6,500.00
53000	Dept. of Corrections	00003100	2/21/2007	621045	0000004637	DAKOTA APPRAISAL & CONSULTING INC	\$ 150.00



#### EXECUTIVE COMMITTEE

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Joel Feist, Minot

##### 1<sup>ST</sup> VICE PRESIDENT

Eddy Mitzel, Mandan

##### 2<sup>ND</sup> VICE PRESIDENT

Jason Eid, Fargo

##### SECRETARY/TREASURER

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Ron Zeller, Dickinson

##### BUILD-PAC TRUSTEE

Don Dabbert Jr., Fargo

##### ALTERNATE BUILD-PAC TRUSTEE

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Mark Barstad

Barstad, Executive Officer

#### STAFF

Doreen Riedman, Executive Officer

Sandra Neiss, Administrative Assistant

Affiliated With



## Testimony on Senate Bill 2187

Senate Government & Veterans Affairs Committee

January 21, 2011

**Doreen Riedman, Executive Officer**  
North Dakota Association of Builders

Chairman Dever and members of the Senate Government and Veterans Affairs Committee, the North Dakota Association of Builders (NDAB) encourages your support of Senate Bill 2187, relating to the ND Real Estate Appraisal Qualifications and Ethics Board.

The NDAB represents nearly 2,000 members statewide with employees numbering 46,589. We are affiliated with six local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, Minot, and Williston; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 160,000 members.

### BACKGROUND:

For approximately 15 months, we have been working with other partners in the housing industry – the ND Association of Realtors, ND Bankers Association and the Independent Community Banks of ND – to attempt to resolve issues all of our associations' members are having with appraisers in our state.

Together, our four groups met with the ND Real Estate Appraiser Qualifications and Ethics Board (NDREAQEB) in December of 2009, sharing complaints and other comments from our members.

Here are some of the complaints coming from our builders:

- Long waiting times for appraisals (minimum of eight weeks, and as long as three months) – especially if the appraisals are on more expensive homes or in rural areas; some have been shelved and then passed along to another appraiser
- Additional fees to get quicker appraisals
- Closing date delays; often affecting multiple families
- Deals fell through, houses weren't built, remodels weren't done – directly affects **commerce and jobs** in our state; small businesses suffer, especially due to the seasonal nature of our business

- Low-balling appraisals in attempt to adjust and control the marketplace
- Fence-building among appraisers; not allowing new people into the business
- Appraisers not accountable or dependable
- Appraisers don't "service" their customers; business simply comes to them
- With a limited number of appraisers in local areas, builders are hesitant to complete the NDREAQEB complaint form, fearing future retribution from appraisers

In our group discussion with the NDREAQEB, we wanted to make sure that all housing partners were aware of each others' responsibilities, so we put together a list of questions and answers. The NDREAQEB provided answers to our questions and our groups distributed them to our respective members (*attached*), put them on our websites, etc. We sincerely hoped this would open the communication lines, clear up any confusion, and things would improve along the way.

Not much changed during 2010 – the complaints were unremitting, and we continued to communicate the challenges our industry was facing, trying to find solutions.

#### ENERGY VALUE APPRAISAL PROGRAM:

In September 2010, one of our builders attended a NDREAQEB meeting to describe his concerns on the low appraised values on homes with energy efficient products and technologies. The NDREAQEB suggested that he, along with the ND Association of Builders, develop a tool to help appraisers more accurately determine values on homes with structural insulated panels (SIPs) or geothermal systems, for example.

We eagerly formed a task force and met weekly during the fall to develop our Energy Value Appraisal Program that scores and adds values to homes based on Home Energy Rating System (HERS) testing. One member of our task force was Carl Pedersen, an energy educator with the NDSU-Extension Service in the Ag and Biosystems Engineering Department. We received support and encouragement from the realtors and bankers, along with NDSU-Extension Service and the ND Department of Commerce. However, upon presenting this at the December 2010 of the NDREAQEB, we were promptly denied, even though it was this board that originally asked for such a scoring tool.

#### RESOLUTION:

Our industry groups heard about pending legislation in late 2010, reviewed it, and determined this would be a way to ensure more accountability and transparency from the

# Questions for the ND Appraisal Board

*From the: Independent Community Banks of ND, ND Association of Builders,  
ND Association of Realtors, and ND Bankers Association*

## ND Appraisal Board

### **What are the responsibilities of the appraisal board?**

N.D.C.C Chapter 43-23.3-03 details the power and duties of the Appraiser Board.

1. *The board, or its designated representative, shall:*
  - a. *Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.*
  - b. *Establish examination specifications for each category of licensed and certified appraiser and administer examinations.*
  - c. *Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.*
  - d. *Discipline permittees.*
  - e. *Hold meetings, hearings and examinations in places and at times as it designates and maintain records of board activities.*
  - f. *Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.*
2. *The board, or its designated representative, may:*
  - a. *Promote research and conduct studies relative to real estate appraising and sponsor educational activities.*
  - b. *Contract for services necessary to carry out this chapter.*
  - c. *Enter into reciprocity agreements with other states.*
3. *The board or its designated representative may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board. Board investigative files are exempt records as defined in subsection 5 of section 44-04-17.1, but a copy of the investigative file must be provided to a licensee if a complaint is filed against the licensee by the board.*

**Does the board have the power to require completion of an accepted appraisal within a specific time, such as six weeks?**

No, the Board does not have the power.

**Can the board sanction an appraiser for failing to give value to such things as a geothermal heating system in a home?**

It is the appraiser's responsibility to properly substantiate to what extent any amenity creates additional value. If it is found through a complaint that substantive errors have been made, an appraiser can then be sanctioned.

**Is there anything the appraisal board can do to reduce the two-year apprenticeship that is required for an appraiser to be fully qualified to perform appraisals without supervision?**

Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Appraisal Qualifications Board (AQB) of the Appraisal Foundation establishes the minimum education, experience, and examination requirements for appraisers to obtain a state certification.

States are required to implement appraiser certification requirements that are no less stringent than those set by the AQB. For the individual making application for certified residential, these requirements include 2,500 hours of experience obtained during no fewer than 24 months. For the individual making application for certified general, these requirements include 3,000 hours of experience obtained during no fewer than 30 months. The required number of months must accrue before an individual can be certified.

**Are North Dakota's requirements exactly the same as AQB's requirements, or more stringent?**

ND follows the AQB requirements.

The following, relative to the appraiser trainee, comes directly from Appraisal Qualifications Board "Real Property Appraiser Qualification Criteria":

"A. The Appraiser Trainee shall be subject to direct supervision by a supervising appraiser in good standing, who shall be state certified.

B. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the Appraiser Trainee by:

1. Accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP.
2. Reviewing and signing the Appraiser Trainee appraisal report(s); and
3. Personally inspecting each appraisal property with the appraiser Trainee until the supervising appraiser determines the Appraiser Trainee is competent, in accordance with the COMPETENCY RULE of USPAP for the property type."

Therefore, the appraiser trainee (apprentice appraiser) must work under supervision until he/she meets the requirements of the level he/she is making application for.

**Does the appraisal board regulate appraisal management companies?**

No, the Appraisal Board does not have the authority to regulate management companies.

**Licensing of Appraisers**

**How many appraisers do we have in North Dakota?**

Currently there are 263 apprentice, licensed and certified appraisers in North Dakota.

- 35 apprentice
- 47 licensed
- 31 certified residential
- 150 certified general

**How does that compare to five and 10 years ago?**

Five years ago ND had 245 apprentice, licensed and certified appraisers.

Ten years ago ND had 220 apprentice, licensed and certified appraisers.

**How many are FHA certified?**

The Board does not maintain a registry of FHA certified appraisers. A listing of FHA certified appraisers can be found on HUD's website ([www.hud.gov](http://www.hud.gov)).

**Where can we find a list of certified appraisers?**

A listing can be obtained through Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board Office. In addition, the Appraisal Subcommittee maintains a nation wide database of licensed and certified appraisers known as the National Registry. This National Registry is located on their website at [www.asc.gov](http://www.asc.gov).

## Who approves applications to be an appraiser? Who approves those who are FHA Certified?

The ND Appraiser Board approves applications for apprentice, licensed and certified appraisers. For information relative to approval of FHA appraisers, check HUD's website at [www.hud.gov](http://www.hud.gov).

## What are the requirements to become an appraiser in ND?

The following is a recap of the requirements for each appraiser level, please refer to the Rules and Regulations for complete details:

### ***Apprentice Appraiser Classification:***

- Education:** Successful completion of 75 hours of Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation (Education must have been obtained within the 5-year period immediately preceding making application).
- Experience:** None
- Examination:** None

### ***Licensed Appraiser Classification:***

- Education:** Successful completion of **150 hours** of Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 2000 hours (240 points) over a minimum of 12-month period
- Examination:** Uniform State *Licensed* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

### ***Certified Residential Appraiser Classification:***

- Education:** **Associate Degree or higher;** in lieu of the Associate Degree, a minimum of 21 semester credit hours covering specific collegiate level subject matter courses from an accredited college, junior college, community college or university.  
In addition to the college level course requirement, successful completion of **200 hours** Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 2500 hours (300 points) over a minimum of 24-month period
- Examination:** Uniform State *Certified Residential* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

### ***Certified General Appraiser Classification:***

- Education:** **Bachelors Degree or higher;** in lieu of the Bachelor Degree, a minimum of 30 semester credit hours covering specific collegiate level subject matter courses from an accredited college, junior college, community college or university.  
In addition to the college level course requirement, successful completion of **300 hours** Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 3000 hours (360 points) over a minimum of 30-month period
- Examination:** Uniform State *Certified General* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

## Can a licensed real estate agent/broker also become a licensed/certified appraiser?

Yes, as long as the applicant meets the requirements for licensure or certification as an appraiser.

## What is required before an appraiser who is licensed/certified in another state can perform appraisals in North Dakota?

N.D.C.C. 43-23.3-04.1 indicates:



*"The board may issue a permit to an applicant who is licensed or certified in good standing by another state if the other states requirements to be license or certified are at least substantially equivalent to the requirements imposed by this state."*

Therefore, if the appraiser's home state of licensure/certification has substantially equivalent requirements to North Dakota's requirements, and the appraiser is in good standing, the appraiser may apply via reciprocity. However, if the home state of licensure/certification requirements are not substantially equivalent, the appraiser must apply through the full application process, as is required of a resident applicant.

N.D.C.C 43-23.3-11 allows the Board to issue permits to nonresident appraisers on a temporary nature. . The appraiser must be in good standing and make application with the Board, which includes a copy of the contract or letter of engagement for appraisal services. A temporary permit is limited to the appraisal work required by the contract for appraisal services, expiring upon completion of the assignment.

### **Standards, Complaints**

#### **Where can we find the professional and ethical standards that apply to North Dakota appraisers?**

A copy of the Appraiser Rules and Regulations can be found on the Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board office.

A copy of the "Uniform Standards of Professional Appraisal Practice can be ordered through the Appraisal Foundation at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

#### **Where can we find the form to make a complaint to the appraisal board?**

A complaint form can be found on the Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board office.

### **Timing and Completion of Appraisals**

#### **What are the actual determinants an appraiser goes by to come up with the value of a home: Is there a commonly used list of attributes?**

There is no "checklist". The appraiser is to use the same "determinants" that market participants (buyers and sellers) use in the marketplace.

#### **It takes so long to get an appraisal, why?**

The length of unprecedented low interest rates has fueled a still continued strong demand in the refinance market. In normal times or prior to interest rates falling below, say, 6%, getting an appraisal completed in a timely manner was not a problem.

#### **What can Realtors do to make the process and timeline go smoother?**

This answer would vary with each appraiser. Returning phone calls in a timely manner, accurately reporting sale details, confirming data accurately, and providing factual data are some examples.

#### **Are there any requirements on reappraisal fees? Are there time requirements?**

No known requirements on "reappraisal fees" or completion times. Each appraiser sets their own fees and completion times as negotiated with the client (usually the lender).

**What are the appropriate practices for features on a home that, due to seasonal conditions, may not be finished? For instance, a home completed in December might not have the air conditioner hooked up outside and the landscaping may not be finished. How is that appraised?**

It depends on what is requested by the client (usually a lender). If the value is to include these items, an escrow account may have to be set up. If the request is to appraise the property "as-is", incomplete items are noted but the value is reflective of its present condition.

**What are the inspection requirements? What is required for an appraiser to complete a "final" appraisal?**

There are no specified requirements in statute or rules. Again, this requirement is set by the client (usually a lender). Most times it is self-explanatory. The "final" appraisal or what is commonly requested or the "final inspection" requires that the appraiser attest that all items that were detailed in the plans, specs, and/or purchase agreement be entirely completed.

### **Communication**

**Is an appraiser allowed to communicate with the contractor, real estate agent or banker who is involved in a financing project? If so, what are the limits with each of these persons?**

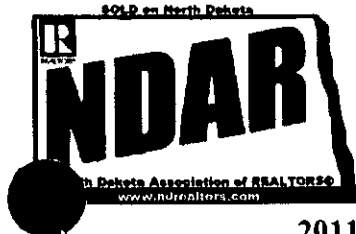
The appraiser can communicate with all these individuals about most all components of the appraisal except for confidential information and any attempt to discuss or influence the value conclusion.

**There is a proposed guideline emphasizing a separation between the persons ordering, performing and reviewing appraisals (a lender cannot order the appraisal from the appraiser). Does this separation mean that a financial institution will need to use an appraisal management company? Please explain.**

Please refer to the Home Valuation Code of Conduct (HVCC). This can be found at:

<https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/>

A financial institution does not necessarily have to use an appraisal management company. However, they must separate the loan origination department from the person or department that orders and manages the appraisal process. Many local lenders still order their own appraisals but have assigned separate staff to manage the appraisal process. They have not contracted with third party management companies.



2011

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## Testimony for Senate Bill 2187

Senate Government and Veterans Affairs committee

January 21, 2011

Mr. Chairman and Members of the Government and Veterans Affairs committee, my name is Claus Lembke. I am the Government Affairs Director for the North Dakota Association of REALTORS®. We are a statewide trade association with nearly 1500 members located throughout the state and organized in 8 local Board of REALTORS®

We feel that the current appraisal laws and practices do not reflect today's practical demands of real estate transactions. The proposed changes in SB 2187 are designed to improve the availability of appraisers, it removes some fence building, allows for simpler reciprocity, better defines standards for approval or disapproval and elevates the Appraisal Qualification and Ethics Board to a professional level.

For years we have heard of unbelievable treatment of appraisers and applicants. At first we thought that these were a few isolated cases. Then recently we noticed that these issues have become more prevalent and a statewide concern.

We are finding that loans are being approved in a week but many appraisals take a few months to be completed. We also found that Builders and Bankers were getting frustrated with these long delays. In some communities appraisers are being bribed with a higher fee in exchange for a more timely completion of an appraisal. We find that very unprofessional.

Last summer we formed a coalition of Builders, Bankers and REALTORS® to identify the problems and to look for solutions.

It looks to us like the Board's actions and procedures discouraged many individuals from seeking appraisal licenses and many lost their license without explanation of what they did wrong. They quit out of frustration. Many were denied reciprocity from another neighboring state even though they were in good standing in their home state, which is governed by the same national minimum standards. Those that ultimately got licensed had to wait, sometimes for years, before they were approved. One application has been before the Board since 2005.

Our coalition worked with Senator Olafson and the co-sponsors Senators Judy Lee and Heckaman and Representatives RaeAnn Kelsch, Boehning and Wieland to draft SB 2187. We are attempting to make licensure less complicated, create uniform standards, tear down some fences that currently keep appraisers out, hold the board more accountable, and make the process more transparent.

The most shameful issue is that many appraisers, under investigation or not, are afraid to testify in fear of retaliation from the board. This is not acceptable here in North Dakota and the United States. I have personally apologized on behalf of our state to several people who were treated less than professionally by the Board. Please help us to fix this situation by passing SB 2187.

Thank you for your time and I am ready to answer questions from the committee.

Testimony  
SB 2187

I applied for a Certified General ND Appraisal license in late 2007. I have a letter from the ND appraisal board stating that I met their requirements for education, experience and testing. The only thing left to have done before issuing a license to me was to examine a sampling of my work for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). I confidently sent in three of my actual reports for review. I have been appraising professionally since 1985 and was licensed as a certified general appraiser in 1991 in MN. This was the first year Minnesota had licensing. I never had any issue with that regulatory body.

The ND appraisal board sent my three appraisals to James Cannon from Kansas to review my work. This was who they picked. He reviewed my work and found all of it to be "Substantially compliant" with USPAP.

After I got copies of his reviews, the ND appraisal board met and I waited to receive my license. When a month passed I asked one of the board members what the hold-up was. He said he did not know. I called the ND appraisal board to find out when I would get my license and I was told that the appraiser who did the reviews did not know what he was doing so they were going to have them reviewed by someone else. James Cannon, who reviewed my work, was on the board that oversees the actual USPAP book for two years in 2005 and 2006.

They hired someone else to say my work was noncompliant and denied my license. A subsequent administrative law judge stated that they do not have to have any outside reviews and can do whatever they want. At that point my career plan for North Dakota changed.

This testimony was sent to me, Claus Lembke. I was asked to present it to the Hearing committees because the appraiser in question feared retribution from the board.

Harvey Trapp  
2605 Kristen Lane  
Bismarck, North Dakota 58503  
701-220-9302/Fax-701-223-7504

Notes on Testimony-

My name is Harvey Trapp, I was a real estate appraiser from 1976 until 2005 and have been a real estate broker from 1976 to the present time. I'm here to support SB 2187. I truly believe there needs to be specific guidelines on how new applications are handled & the compliance of standards for existing appraisers are addressed. Recently, I have received quite a few calls from other appraisers who have encourage me to testify on this bill as they believe there is a real need to make changes in current legislation regarding the appraisal board but are fearful to speak up because of the possible consequences that may occur.

In July of 2003, a complaint was filed against me and I was asked to submit 5 appraisals to Appraisal Board. The appraisals were sent on to an independent reviewer by the board.

The first response that I heard back from the appraisal board was notice of revocation of my appraiser's license on 6-2-2004 without a hearing or any opportunity to address any areas of concern. I only received a copy of the reviewer's results after my license was revoked.

In July of 2004, I challenged the revocation of license in court and received a court order in November of 2004 for the board to reverse the suspension.

After the court had reinstated my license, I applied for my 2005 license and paid the license fee in December of 2004. In January of 2005, I was notified by a loan company that they could not use me as an appraiser as I was listed on the ND Appraisal Board website as having my license revoked. This was approximately 2 months after being reinstated. After repeated phone calls to the board, the status was finally corrected.

In May of 2005, I was notified to appear before the Real Estate Appraisers Board in June for a hearing to address the re-review of the previous 5 appraisals which was completed by the same reviewer. It should be noted that the independent reviewer's results from the first review noted some

# From A Professional Remodeler's Viewpoint

As one of the owners of a 33-year old remodeling and custom home building company here in Bismarck, I agree and support Senate Bill 2187 related to the ND Real Estate Appraisal Qualifications and Ethics Board. **Why?** First, I feel there is "wisdom in council" when you have diversification involving qualified board members who are professionals that bring to the table their specific expertise that are related to this bill. Not only will this new board gain wisdom, it will promote a non-bias approach that will be fair to all. With versatility of this new board, I guarantee there will be congruency within the system, and consumer confidence will reignite and grow as they see their home investments yielding solid returns.

It's critical that we make the change now and pass this bill, but with transparency for all. There should be no secrets. Our established company had 20 employees 2 years ago and we now have 13 employees. I don't have to do the math for you, but this erosion has created some major, financial results that can't continue. I have talked with presidents of banks and found they are concerned because they're closing less deals as well. In addition, I have talked with realtors and found the last two years have been challenging for them as well, but we must not forget the many homeowners out there that still have home needs and dreams that have yet to be met.

**I realize these following things are not in the bill, but are reasons why we need to pass bill 2187.**

- 1. I have had many clients, or prospective clients, tell me their appraisal has come in at, or less than the city's assessed value. In the past, our city assessed values were typically always 10 to 20% less than actual appraised value.**

**Example:**

- A. Many home owners have been ready to remodel, assuming they have equity in their home, based off of their records from the last 2 to 4 years (whether it be city assessed, or a paid appraisal). Much time and money goes into generating a detailed design and estimate for the homeowner. The financing with the bank looks promising until the appraisal comes in and everything comes to a halt. The homeowner finds out at the end of the process that they either have to downgrade, or they can't remodel at all, based upon today's appraised value given.**

**What's changed in our great state?** We as a state, I would think have been conservative in our appraisals compared to the other states which were most likely

manipulating the system. How many foreclosures has this state had compared to Arizona or California? We are one of the few states in this nation that has a state surplus. **We need not fear, if we in North Dakota who are in the building industry, (including banks, realtors and appraisers) have not partaken into the manipulation of home values, like so many other states. There should be no need to make such drastic changes in how, or what is considered "Assessed Value". What we simply need are "True Appraisal Values", based off our strong economy in this great state.** If our home values have been going up every year, except for the last two years, how can the stock market, Wall Street, and Washington affect North Dakota home values dropping? Our home values should be going up in North Dakota in the same way our local economy is performing.

If a basic home, really cost \$250,000 to build then the appraisal can't, and should not, be less. In most cases, as it relates to remodeling, a \$60,000 addition that has several hundred sq. ft. should not be assessed for less than 50 cents on the dollar coming out of the gate. It's always going to cost more per square foot to remodel than to build new, but building new isn't always the answer. Anything less than "True Appraisal Value", on both is considered self-inflicted and the outcome is simple - a diminishing commerce when the homeowner doesn't see a fair return on their investment.

Last fall, I had a client, an experienced banker, who wanted to build a new addition for around \$70,000. He called me one day during the financing stage, very frustrated and concerned. The finished detached shop, which he had built a year ago for \$50,000, by another builder, had appraised that day for \$10,000. My prospective client was asking me how can this be, and is this correct? Needless to say, I was fortunate to complete the sale of his addition, when all that was running through my client's head was, "If I'm not getting a good return on my investment for my shop, why should I be thinking of adding an addition to my 7-year old home?"

***"Why are the values of our homes going down in North Dakota when we have one of the strongest economies in the Nation?"***

2. What are the written criteria the appraisers use when assessing value on a client's home, whether it's new construction, existing home, or a remodel, and can this be shared with homeowners, banks, realtor's and builder/remodelers?

If you had five (5) appraisers independently appraise a home, what would the outcome be? The ultra-conservative approach is "safe" for the appraiser, but is it fair for the homeowner, realtor, banker, and the builder/remodeler?

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Testimony to the Senate Government & Veterans Affairs Committee

1-21-2011

Dear Mr. Chairman and members of the Senate Government and Veterans Affairs committee,

My name is Nathan Schwarz. I have been a licensed appraiser in ND and MN since 1994 and a certified appraiser in MN since 1998. I have been appraising in ND and MN for the past 17 years since obtaining my license.

When the ND Appraisal Board announced in 2007 that they would soon offer a Certified Residential license, I began the upgrade process. Because ND does not have reciprocity with MN, I was informed that I would need to retake the appraisal exam and resubmit all of my education hours and experience hours again. I took the exam in the fall of 2007. I also prepared my experience log and a detailed list of all my education hours, along with all other required documents, and sent them in.

Several months later the board selected 3 appraisals for their review. They were sent to a review appraiser in Arizona. When I received copies of his review it was evident that he was not familiar with the area that I appraise in. (One particularly revealing comment he made was how every new house has a sprinkler system and that I didn't perform due diligence in my appraisals because my comparable sales didn't have sprinklers. The fact that not all new home constructions in ND have sprinkler systems was irrelevant!) Based on this appraisers review and a short teleconference with the ND appraisal board, my work was deemed inadequate to receive a Certified Residential Appraiser license. I was told I could submit 3 more appraisals for review again at a later date, but since the board is not required to provide any specific documentation as to why the application was denied, there was little opportunity for me to determine exactly what the board was looking for. Since the only documentation for denial was the 3 appraisals reviewed in Arizona, I made the changes I felt appropriate.

After several months, I had accumulated a large enough appraisal log that I felt I could send it in to the board for another review. In September of 2009, two years after the process was started, a teleconference was scheduled for another review. Each member fired off a couple of question they had about various items in the report. It had been several months since I had completed the reports and we were speaking over a speaker-phone connection instead of face to face, so it was difficult to follow their questions and give a detailed answer. So I mostly just listened to their comments. I understood the comments as suggested areas for improvement since none of the questions directly regarded violations of USPAP (Uniform Standards of Professional Appraisal Practice), but at the end of the meeting they decided that my answers were insufficient and my license upgrade was again denied.



After I hung up the phone, I read through my reports again with some of the things they commented on in mind. I soon realized that a lot of the questions they'd had were already addressed in the report, but being so nervous I was just unable to focus on what they were asking. I immediately called the board back and asked if we could go over some of those items again as I'd had a chance to calm my nerves and could better discuss them. One board member spoke up and said that they wouldn't continue the interview; the interview was over. I directly asked the board members where I should improve, they replied that I should know. I again tried to defend myself by illustrating that the value estimated in the reports were accurate, they replied that the stated value is irrelevant. What is important is the way the report is written. I don't think the lenders I work for would agree with this statement, but that was the response I was given. He continued saying that another interview wouldn't matter anyway, because the decision was based on the report and not the interview. So I wonder, what is the purpose of the interview? Why doesn't the board just provide a clear and concise written review, detail the reason the request is denied and provide suggested areas of improvement? This would provide better feedback and an opportunity for the appraiser to improve.

So here I am now. Four years after I started the process, and I am once again looking to retake an exam that I was once told was good for life. I am preparing my new education and experience log and I am preparing for another interview with the board. My MN certification is still active and I have never had any violations filed against me. Because MN has a different review process, ND will not allow reciprocity and this too makes no sense. Why should the appraisal board spend countless hours reviewing something that has already been reviewed and documented by another states appraisal board. When the qualifications are the same, and the only difference is how the appraisal is reviewed, it is a waste of everyones time and state resources to deny reciprocity!

Thank you for your time.

Sincerely,

A handwritten signature in cursive script, appearing to read 'N P Schwarz'.

Nathan P Schwarz

SENATE BILL NO. 2187

**Testimony of Joe Ibach, Chairman of the North Dakota Real Estate Appraiser  
Qualifications and Ethics Board**

**January 21, 2011**

Good morning. My name is Joe Ibach, chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this board throughout my testimony as either the North Dakota Appraisal Board or the Appraisal Board. I am fairly confident that my service as a Board member is what prompted some of this proposed legislation. Governor Schafer appointed me to the Board in 1993 and I have served as chairman since 1996. I have been an appraiser for 35 years and my business is located here in Bismarck.

The history of the licensure of appraisers is definitely important as it relates to this bill. The Appraisal Board was established in 1991 as a result of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). FIRREA was established due to the savings & loan financial meltdown of the late 1980's. Title XI of this bill addressed the need and process for regulation of real estate appraisers. The intent of this regulation was to have a "three legged" enforcement tool to ensure that appraisals conducted for "federally related transactions" over a certain dollar amount (diminimus) would be performed by qualified and competent appraisers.

The first leg of this FIRREA established enforcement tool was and continues to be the Appraisal Subcommittee (ASC). Among its many obligations, the ASC has an oversight responsibility to include the monitoring of the states in two ways or (1) certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions including a code of professional responsibility and, just this past year, (2) registration and supervision of the operations and activities of appraisal management companies (AMCs). AMCs generally administer the appraisal ordering or delivery system for users of appraisals. The registration and supervision of AMCs was only recently enacted in 2010 in the Dodd-Frank Reform Act. The states will be required by 2013 to have legislation in place to license AMCs.

Every two years, the Appraisal Subcommittee sends policy managers to each state to insure that the state is in full compliance with federal law. If a state fails the review, the only disciplinary action the ASC could take against a state (prior to the Dodd-Frank Reform Act) would have been to find our state appraiser licensing/certification program to be in non-compliance. If a state is found to be in non-compliance, all licensed and certified appraisers in that state would then be declared ineligible to perform appraisals for federally related transactions. It would essentially put a stop to the lending industry, as most loan transactions are required by federal law to have an appraisal to support the loan. I am proud to say that the State of North Dakota has received excellent reviews of our appraisal regulatory program from the ASC. In our last ASC review or in 2008, one of the ASC representatives, Ms. Tidwell, indicated that they will be pointing to the North Dakota Appraisal Board as a "bragging report" to present to other states.

The second leg of the FIRREA enforcement tool was and continues to be the Appraisal Foundation. This non-profit organization was established by the appraisal community in 1987 and is dedicated to the advancement of professional valuation services. Initially, the Appraisal Foundation sponsored two independent boards to help complete its mission. The first of these boards or the Appraisal Qualifications Board (AQB) is responsible for establishing the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification. The second board or the Appraisal Standards Board (ASB) is responsible for the development, interpretation, and amendments to the Uniform Standards of Professional Appraisal Practice (USPAP). Most recently, the Appraisal Foundation added a third board or the Appraisal Practices Board (APB) to provide voluntary guidance on recognized valuation methods and techniques.

The third enforcement leg of FIRREA was the requirement that each state establish a state law to implement Title XI. In this regard, Chapter 43-23.3 of the North Dakota Century Code was created in 1991 to regulate real estate appraisers. A copy of the State Statute is enclosed with this testimony. It is imperative for the committee members to understand that the

establishment of the real estate appraiser statute was a federal mandate. Prior to 1991, appraisers were not subject to licensure.

In essence, the North Dakota Appraisal Board is then the third leg of the FIRREA enforcement mechanism and, in the Board's opinion, the most vital. Section 03 of the statute identifies the powers and duties of the Board. It is important that all committee members understand that the powers and duties of the Appraisal Board are quite limited. Because of their importance, the powers and duties of the board are included verbatim below.

**43-23.3-03. Powers and duties of the board.**

1. The board, or its designated representative, shall:
  - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.
  - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.
  - c. Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.
  - d. Discipline permittees.
  - e. Hold meetings, hearings, and examinations in places and at times as it designates and maintain records of board activities.
  - f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.
2. The board, or its designated representative, may:
  - a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
  - b. Contract for services necessary to carry out this chapter.

c. Enter into reciprocity agreements with other states.

3. The board or its authorized representative may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board.

Essentially, the Appraisal Board was mandated to protect public interest to the degree possible. The Board upholds this mandate by insuring individuals who are apprentice appraisers, licensed appraisers, certified residential appraisers, and certified general appraisers are qualified to perform appraisals according to the minimum federally mandated standards. These minimum standards are identified as the Uniform Standards of Professional Appraisal Practice (USPAP). I have a copy of the most recent addition of these standards on hand. The standards were rewritten every year but today they are rewritten every two years.

These standards address how appraisers are to develop and report the appraisal. The following six important sections provide an underlying basis for many of the conclusions detailed in this testimony.

1. The Preamble (Page U-6) states: *The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analysis, opinions and conclusions to intended users in a manner that is meaningful and not misleading.*

2. The Ethics Rule (Page U-7) states: *An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.*

3. The Conduct section under the Ethics Rule (Page U-7) states: *An appraiser must perform assignments with impartiality, objectivity, and independence, and without*

*accommodation of personal interests.* Among other things identified within this section is that an appraiser must not perform an assignment with bias nor may an appraiser advocate the cause of any party or issue. The conduct section also identifies eight other "must not" behaviors.

4. The Competency Rule (Page U-11) states: *An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment.* Competency requires, among other things, that an appraiser has the knowledge and experience to complete the assignment competently and that an appraiser must recognize and be in compliance with the laws and regulations that apply to the appraiser or to the assignment.

5. Standard 1 (beginning on Page U-16 and ending on Page U-20) states: *In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analysis necessary to produce a credible appraisal.* This Standard provides the requirements an appraiser must follow in the actual **development** of a credible appraisal that is essentially worthy of belief. There are several Standards Rules under Standard 1 that must be followed when developing a real property appraisal. For example, Standard Rule 1-1 requires that an appraiser be **aware of**, **understand**, and **correctly employ** those recognized methods and techniques that are necessary to produce a credible appraisal. There are a total of six Standards Rules along with several other sub-titles under each of these Standard Rules that an appraiser must follow under Standard 1.

6. Standard 2 (beginning on Page U-21 and ending on Page U-29) states: *In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.* This Standard provides the requirements an appraiser must follow in the actual **reporting** of the results in a real property appraisal.

What is vital in Standard Rule 2-1 is that it requires each written or oral real property appraisal report to clearly and accurately set forth the appraisal in a manner that will not be misleading; contain sufficient information to enable the intended users of the appraisal to understand the report properly; and clearly and accurately disclose all assumptions and limiting conditions used in the assignment.

A thorough review of the Uniform Standards of Professional Appraisal Practice proves that the standards are highly technical in nature. The "minimum" appraisal standards were not written by the North Dakota Appraisal Board but the standards were written by the Appraisal Standards Board (ASB) of the Appraisal Foundation. Please understand that these represent the "minimum" appraisal standards that all apprentice, licensed, and certified appraisers throughout the nation and in North Dakota must follow.

It has been the policy of the North Dakota Appraisal Board to provide each apprentice, licensed, and certified appraiser permitted in this State a copy of USPAP. The Board also sponsors a class specifically written to cover the provisions of USPAP at least once every two years. This class is important because it addresses the changes in the most recent edition of the Uniform Standards of Professional Appraisal Practice. The Board makes every attempt to ensure that all state appraisers have an opportunity to understand the changes made to USPAP.

Providing this educational opportunity for appraisers is critical to the Board in upholding the interest of the public. The North Dakota Statute in Section 18 states that *"A licensed and certified appraiser shall comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation."*

To be permitted as a "qualified" licensed appraiser, the individual must meet the minimum requirements as federally established for such a permit. It has always been the intent of the North Dakota Appraisal Board to ensure that every appraiser meets but is not required to

exceed the minimum education, experience, and examination requirements established by the Appraisal Foundation to obtain a State issued permit.

Currently, the State has 220 permitted appraisers. This total includes 25 apprentice appraisers, 90 licensed appraisers, 40 certified residential appraisers, and 65 certified general appraisers. Over the last seven years or since 2004, the Board has reviewed and acted on 257 applications. These 257 applications did not result in 257 permitted appraisers. A large percentage involved existing appraisers upgrading to a different licensure or certification level. Of the 257 applications, 193 North Dakota applicants have been approved and 34 applications were approved through reciprocity totaling 227 approved applicants or an approval rate of 88.3%. Only 30 applicants have been denied or 11.7%. Several of the denied applicants were tabled until the applicant could provide acceptable work product. These applicants subsequently reapplied and were then approved.

Numerous appraisers have forwarded written responses to the committee opposing this bill. At least two appraisers who responded had applications that were initially denied but then reapplied and were approved. Paraphrasing from the letter from Ms. Jana Hankey, she indicated that, when she was first denied in 1996, she blamed the Appraisal Board but later realized they were right. She goes on to state that *"I honestly believe, it has made me a better appraiser. I have been impressed with the current Board members' appraisal knowledge and grateful they are willing to share their time and expertise to make our profession more respected."*

Since the Board was established in 1991, only eight permits have been surrendered. Two have been revocations and two were suspensions. Four of the eight have been voluntary surrenders in lieu of further disciplinary action. Additionally, only 77 disciplinary actions of any kind have been taken against an individual's permit. Of the 77, 52 (67.5%) were dismissed, 21 (27.3%) entered into settlement agreements, two licenses were suspended, and two were revoked. In most instances, the Board has tried to work with the disciplined individual by offering a "settlement agreement". It provides the individual an opportunity to avoid a more serious disciplinary action, such as suspension or revocation of a permit. Many times this settlement



agreement will require the disciplined appraiser take additional education, agree to a mentor or review appraiser to oversee work product for a period of time, and/or pay a fine. The settlement agreement will normally require a review of the individual's work product after that individual has completed the required education or mentoring requirements agreed in the settlement agreement.

The statistics relating to the application and approval process demonstrate that the Board has and continues to work diligently to uphold applicant qualifications within the appraisal profession in the State of North Dakota. Some denied applicants may have disagreed with the Board but be assured that all are handled equitably using the same minimum standards established by the state statute. At no time has there been a personal vendetta against any particular applicant. Board members consistently act in a professional, ethical manner and these same Board members hold the necessary expertise to oversee and manage application process. Together, Board members work diligently to maintain public trust and public interest.

Four of our five board members participated in a conference call on January 17, 2011, to discuss the proposed legislation detailed in Senate Bill 2187. Mr. John McMaster, the public member on the Appraisal Board, was unable to participate in the meeting.

After considerable discussion, the Appraisal Board voted unanimously to oppose Senate Bill 2187, as currently drafted. The Appraisal Board members requested that I, as chairman, provide testimony supporting the Board's opposition of this bill. The following testimony, as it relates to each amendment, represents the concerns and opinions of the Board members.

#### **Section 1. AMENDMENT.**

**Section 43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.**

#### Page 1, Lines 8 through 18:

This proposed change would add two additional members to the Board with one of the new members being a representative of the building industry and the other new member being a realtor. The Appraisal Board opposes this change for four primary reasons.

1. Presently, the Appraisal Board is composed of five members. Three members are real estate appraisers. Having a majority of the Board members working in the real estate appraisal profession is critical because many decisions relating to disciplinary actions and issuing permits require the technical expertise of a qualified appraiser. This technical expertise must include knowledge of proper appraisal methodology, a solid working knowledge of the requirements of USPAP, and other regulations that impact an appraisal and an appraiser.
2. Past legislation, including the recently enacted Dodd-Frank legislation, have a common element that appraisers must be able to act independently of any and all pressures to "meet a number". This independence ultimately protects the public interest. The Uniform Standards of Professional Appraisal Practices (USPAP) defines an appraiser as: *"one who is expected to perform valuation services competently and in a manner that is **independent, impartial, and objective.**"*

Experience tells us that both the home builders and realtors have a "vested" interest in a particular number and some, but not all, have attempted to sway appraisers to meet this number. Home builders' primary emphasis is in establishing "cost". The primary emphasis of realtors is in establishing "price". Appraisers' primary emphasis is in developing an opinion of "market value". These three terms are related but are not synonymous. A competent appraiser is required to be independent, impartial, and objective and attempts to reflect the actions of the buyers and sellers in the market. As a result, a market value estimate can be in direct conflict with cost and price which elevates the risk or conflict of interest associated with having a home builder and realtor on the Board. Consequently, state-wide appraisers would be concerned about the pressures of special interests. Oversight by one or more of these special interests, metaphorically speaking, is the proverbial fox watching the hen house analogy.

Composition of statistics on the other 38 North Dakota state boards show that only one of the 38 boards does not have oversight control from within the profession. Several have equal representation but a greater number of the boards have majority representation from individuals within their respective professions. Even the ND State Real Estate Commission requires that three of their five board members be from within their profession. Changing the Appraisal Board composition to a minority of professional representatives from the appraisal profession is not in the best interest of the State or in the best interest of the of the people of this great State!

3. The proposed legislation would require at least one of the three board members reside in a rural area not included within the boundaries of a city having a population in excess of 4,000 (four thousand) inhabitants at the time of the member's appointment. Most of the appraisers in this state live and work in larger cities. They also perform appraisals, many on a regular basis, in communities of 4,000 or fewer residents. It is unconscionable to legislate residency as a criteria to competently serve on the Appraisal Board. What difference does it make as to where a board member resides and what is the value in setting a boundary relating to a community's size? Unless you are an elected official, residency should not determine one's qualifications to serve on the Board.

4. The recently enacted Dodd-Frank federal legislation requires that the Board legislate appraisal management companies (AMCs) by 2013. The Board will then be required to change the Board composition to include a member of the AMC organizations. The Appraisal Board will be responsible for implementing and monitoring of AMC licensure. Though no Board decision has been made, the Board envisions expanding the Board to seven members with the addition of one member from the AMC industry and one additional appraiser member from the appraisal profession.

Page 1, Lines 21 and 22:

This change added the caveat that the financial industry representative must have “a *background in real estate and the lending process*”. The insertion of this language is not necessary since it does not specify who will determine the extent of the representative’s background. It further lists the associations that should submit qualified individual names but did not include the Independent Community Banks of North Dakota.

Page 2, Lines 9 through 13:

This proposed change would set term limits for Board members. Specifically, it states that “A member may not serve more than ten years.” Currently, the Appraisal Board has no term limits. I have been on the Board for 17 years. Harvey Huber, the board member representing the financial industry, has been a Board member for 16 years. Wade Iverson, the agricultural industry appraiser representative, has been a Board member for 13 years. John McMaster, the public member, has been serving for seven years. And the most recently appointed Board member, Carolyn Corwin, has been a member for five years. You may now be questioning why would anyone serve on a board for more than ten years? The most significant reasons relate to (1) the limited pool of interested and qualified appraisers that are willing to serve on the Board and (2) the amount of time one has to commit to competently serve. Ultimately, the Governor has the authority to determine whether boards are not acting in the best interest of the public. The Governor currently has the ability to limit board terms to five years if a board member is not serving the public’s best interest. Of the previously referenced 38 North Dakota state boards, only 14 (37%) have term limits. The vast majority (63%) do not have term limits. A review of the boards indicate that the majority requiring technical expertise do not have term limits. Some of these boards include the abstractors, architects and landscape architects, engineering and land surveyors, State Real Estate Commission, and Professional Soil Classifiers. The Real Estate Commission’s five member board does not have term limits.

Page 2, Lines 22 and 23 or Item 4:

This proposed change states that *"A member (of the Appraisal Board) may not accept an appraisal assignment if the services are provided for the State or are related to real estate in which the State has a direct interest."* The Appraisal Board opposes this change for three primary reasons:

1. Our Attorney General legal counsel opined that it may be a constitutional violation of equal protection. Board members cannot be singled-out without a rational basis.
2. The idea to penalize members for public service would not resonate well within the appraisal profession, especially if the statute was changed to replace Board members every ten years. A potential Board member would realize that their livelihood may be impacted by simply serving on the very entity that ensures competent work.
3. How would "direct" interests be defined? For example, would an appraiser be able to complete work that could ultimately end up with the Bank of North Dakota underwriting part of the loan? Would it impact an appraiser's ability to provide appraisals for first time home buyer programs? Would it greatly diminish the pool of appraisers available for Department of Transportation work, Federal Aviation work, city or municipal work, or all entities that have different degrees of state involvement? All these examples are definitely related to real estate which the State would have some vested interest.

This change has no rational basis.

The Appraisal Board opposes the amendments in this section.

## **Section 2. AMENDMENT.**

### **Section 43-23.3-03. Powers and duties of the board.**

Page 3, Lines 1 and 2 and Section g – Lines 13-15:

The first proposed change (lines 1 and 2) is an addition. It states that the Board or the Board's designated representative shall *"establish standards for approval and disapproval of applicants for permits."* It goes on to add in Section g (lines 13-15) that the Board shall *"adopt*

*rules that clearly and concisely establish the standards for approval and disapproval of applicants for permits. The rules must include a requirement that an applicant disapproval clearly specified the basis for the disapproval.*" The Appraisal Board opposes this change for the following reasons.

This addition to the Statute is somewhat confusing as the Board currently has 49 pages of standards covered in Title 101 or the Appraiser Rules & Regulations. They were last amended on January 1, 2008. Section 101-01-01-01 (page 4) already states that *"The Board must specifically define the minimum levels of experience, education, and testing which an applicant must meet prior to being licensed or certified."* The Board questions what additional standards should be created. The caution here is that any additional requirements that would conflict with or exceed the federal minimum requirements would be in conflict with Section 43-23.3 06 of the State Statute. Specifically, this section addresses the classes of permits and, in each section, it states that the permittee must meet *"the minimum requirements established by the Board."* The Board's perspective on adding this clause is to direct the Board to provide a specific outline in preparing appraisals and/or possibly provide specific education to ensure the necessary standards for approval or disapproval. Again, the statute does not require the Appraisal Board provide the necessary education for appraisers. Rather, the Board determines whether the educational background of appraisers is acceptable. The basis for approval or disapproval is that the applicant must meet the minimum requirements for education, experience, and work product review. Some appraisers have proposed the Board establish a "checklist" so the applicant could expect that their reports meet the minimum standards. The Board is not responsible for educating or providing the necessary experience for the appraiser to meet the minimum requirements. It is the applicant's responsibility to gain the appropriate education and experience to meet the minimum standards. The Board is then responsible for ensuring that any applicant has met these standards. Keep in mind, all have access to the 49 page rules and regulations and the Uniform Standards of Professional Appraisal Practice that outlines the minimum standards' compliance.

Page 3, Lines 16 through 19 or Section h:

This proposed change states that *"Keep permittees informed of Board activities, including providing notification of Board member terms and any upcoming Board vacancy; internet posting of meeting notices, hearing notices, and minutes; and internet posting of proposed and final rule changes."* The Board believes the addition of this section is somewhat unusual because the Board's current website posts most of the requested items. The Board is continually working to update the website to make it more user friendly and to keep important information accessible. Additionally, the Governor's website details all boards, board members, and their terms. The public also has access to the Legislative Council where the rules are proposed and final rule changes are made. Lastly, this information is published in the Administrative Code. Therefore, the Board opposes the insertion of this section since it serves no purpose in facilitating information that already exists through multiple venues.

**Section 3. AMENDMENT**

**Section 43-23.3-04-1. Issuance of permits to applicants licensed or certified by another state.**

Page 4, Lines 2 through 8:

The first change on Line 2 is the addition of *"in a timely manner"* and also states the Board shall issue a permit. The Board is not opposed to adding "a timely manner". However, "timely" is always subject to interpretation. Changing the word may to shall issue a permit has the Board's support. The Board opposes the addition in Lines 7 and 8 as stated or *"Board reciprocity consideration may not be based on review standards."* Adding this limitation is in direct contradiction to Line 4. This section requires that other states' requirements to be licensed or certified are "at least substantially equivalent" to the requirements imposed by this state. North Dakota requires that appraisal work product be reviewed, be it an in-state appraiser applicant or an appraiser applicant applying through reciprocity from another state. The Board's position has always and continues to be that, if an applicant is applying through reciprocity, the applicant will be approved if their state has substantially equivalent requirements. This infers

that the state from which the applicant is applying has also reviewed work product. Reviewing work product, even for reciprocity, is now a federal requirement. Prior to one or two years ago, some states did not review work product which created issues. For example, the State of Minnesota did not review work product. Consequently, a licensed or certified appraiser from the State of Minnesota applying through reciprocity into North Dakota could not get approved because Minnesota's standards were not "substantially equivalent". Minnesota has since changed their requirement and now reviews work product. Reviewing work product is vital to ensure that any appraiser working in the State of North Dakota meets the minimum standards established, not only by FIRREA, but also by the State. It would not be in the best interest of the public to hold non-resident appraisers to a lower standard than resident appraisers. Therefore, the Board opposes the insertion of the last sentence in this section.

#### **Section 4. APPLICATION**

The first sentence in this section states *"The ten-year limit for Board members under section 1 of this Act applies to all board members serving on the effective date of the Act."* Essentially, it would require that current Board members who have served ten years would be automatically removed from the Board as of the legislation's effective date. As a result, only two Board members would remain, one being an appraiser member or Ms. Carolyn Corwin and the other being the public member or Mr. John McMaster. Therefore, it is entirely possible that, if this legislation were passed, the Board would have five new members. In doing so, state appraisers, the users of appraisal services, and the public in general would lose 46 years of combined knowledge and service. This loss would result in the loss of continuity and would hinder the Board's ability to carry out its statutory responsibilities. If the composition of the Board were further diluted with non-appraiser members, it is possible that the standards could be compromised and future appraisal subcommittee reviews may become non-compliant. The worst case scenario would be that all state appraisers would then be found in non-compliance, halting the majority of the lending activity in the State. Therefore, the Board opposes the insertion of all of Section 4.



In closing, the current statute, coupled with the statute's administrative rules, have served as a solid foundation for protecting the citizens of North Dakota's best interest in a prudent and professional manner for nearly 20 years. The Board has continually acted on behalf of the interests of the entire appraisal profession and in the best interest of the State. The Board has also met the challenges of a few disgruntled appraisers face-to-face. The statewide appraiser community does not have the number of qualified appraisers found in other professions. The supply of appraisers is one of the primary reasons that no change should be made to the current statute. In terms of expanding the Board to include a realtor and home builder, the risks and/or conflicts of interest are high. To continue to carry out the responsibilities of the current statute of the North Dakota Appraisal Board in an unbiased manner and to ensure continued public trust, the Board urges a do not pass on Senate Bill No. 2187.

One final note, the Board had not been contacted nor did the Board have any input in the preparation of Senate Bill 2187. No valid reasons have been provided to the Board as to why these changes are necessary. From my perspective, an on-going complaint is the amount of time it has taken to complete appraisals, primarily in the last two to three years. The substantial amount of appraisal work and time involved over these two to three years is a result of increased volume in refinancing. The refinancing resulted from historic low interest rates – not from the lack of appraisers. Prior to 2007, the state had an adequate number of appraisers with no complaints regarding turn-around times. Some people contend that the Board should do more to attract appraisers to the profession. However, the Board does not have the statutory power to recruit appraisers. The appraisal industry, in itself, must address this issue.

On behalf of the North Dakota Appraisal Board, I request that this committee seriously consider the information provided in my testimony. The proposed changes would not improve the State's appraisal profession but, rather, the Board's credibility, unbiased nature, and the integrity of the profession in North Dakota would be compromised. Therefore, the North Dakota Real Estate Appraiser Qualifications and Ethics Board again urges a do not pass on Senate Bill No. 2187.

**CHAPTER 43-23.3**  
**REAL ESTATE APPRAISERS**

**43-23.3-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Analysis" means a study of real estate other than estimating value.
2. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
3. "Appraisal assignment" means an engagement for which a person is employed or retained to act, or would be perceived by the public as acting, as a disinterested party in rendering an unbiased supportable appraisal.
4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987.
5. "Appraisal report" means any communication of an appraisal.
6. "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
7. "Appraiser" means a person who engages in appraisal activity for valuable consideration.
8. "Apprentice appraiser" means a person who holds a valid permit as an apprentice appraiser.
9. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
10. "Certified appraiser" means a person who holds a valid permit as a certified residential or general appraiser.
11. "Certified general appraiser" means a person who holds a valid permit as a certified general appraiser.
12. "Certified residential appraiser" means a person who holds a valid permit as a certified residential appraiser.
13. "Licensed appraiser" means a person who holds a valid permit as a licensed appraiser.
14. "Permit" means the document issued by the board, verifying that the person named on the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a licensed appraiser, or a certified appraiser.
15. "Real estate" means an identified parcel or tract of land including improvements, and interests, benefits, and rights inherent in the ownership of real estate.
16. "Uniform standards of professional appraisal practices" means standards of appraisal promulgated by the appraisal foundation as adopted and modified by the board. The standards adopted and modified by the board must meet the minimum standards adopted by the appraisal foundation.
17. "Valuation" means an estimate of the value of real estate or real property.

**43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.** The governor shall appoint the board. The board must consist of five members. One member must represent the public, one member must represent the financial industry, and three members must be appraisers, one of which is experienced in the appraisal of agricultural property. The appraiser members first appointed to the board must be members in good standing of an organization belonging to the appraisal foundation or have the equivalent of five years of full-time experience as an appraiser in this state. Thereafter, each appraiser member of the board must be either a licensed or certified appraiser, but at least two of the appraiser members must be certified appraisers. The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, the North Dakota credit union league, and the North Dakota league of savings institutions. Each of these entities may submit two names of candidates to the governor. The public member of the board may not be engaged in the practice of real estate appraising. The term of each member is five years, except that of the members first appointed, one shall serve for five years, one shall serve for four years, one shall serve for three years, one shall serve for two years, and one shall serve for one year. A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a board member for cause. The members annually shall elect a chairman from among the members. At least two of the members who are appraiser members must be present in order for a quorum to exist. The members are entitled to receive compensation for each day actually engaged in the service of the board and actual and necessary traveling expenses at the rate allowed other state officials, paid from the fees collected by the board.

**43-23.3-03. Powers and duties of the board:**

1. The board, or its designated representative, shall:
  - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.
  - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.
  - c. Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.
  - d. Discipline permittees.
  - e. Hold meetings, hearings, and examinations in places and at times as it designates and maintain records of board activities.
  - f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.
2. The board, or its designated representative, may:
  - a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
  - b. Contract for services necessary to carry out this chapter.
  - c. Enter into reciprocity agreements with other states.
3. The board or its authorized representative may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board. Board investigative files are exempt records as defined in subsection 5 of

section 44-04-17.1, but a copy of the investigative file must be provided to a licensee if a complaint is filed against the licensee by the board.

**43-23.3-03.1. Public records exception.** Documents obtained by the board as part of the licensing, investigation, or disciplinary process which are deemed confidential under the uniform standards of professional appraisal practices are exempt records as defined in subsection 5 of section 44-04-17.1.

**43-23.3-04. Permit required - Exemptions.** Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

**43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.** The board may issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state.

**43-23.3-05. Permit process.** An individual who desires to engage in the practice of real estate appraisal shall apply for a permit on forms prescribed by the board and submit the required fee.

**43-23.3-06. Classes of permits.** The board may issue apprentice, license, and certification permits for appraisers.

1. An apprentice appraiser must meet the minimum requirements established by the board for a permit. An apprentice appraiser may only assist a licensed or a certified appraiser in the performance of an appraisal assignment.
2. A licensed appraiser must meet the minimum requirements established by the board for a permit.
3. A certified residential appraiser must meet the minimum requirements established by the board for a permit. The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.
4. A certified general appraiser must meet the minimum requirements established by the board for a permit. The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.

**43-23.3-07. Examination requirement.** The board shall issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who has demonstrated the following qualifications through a written examination process:

1. Knowledge of technical terms used in or related to real estate appraising, appraisal report writing, and economic concepts relating to real estate.
2. Understanding of the principles of land economics, appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines.
3. Understanding of the uniform standards of professional appraisal practices.
4. Knowledge of theories of depreciation, cost estimating, methods of capitalization, the mathematics of real estate appraisal, and other principles and procedures determined by the board to be appropriate for the appreciable classification of permit.
5. Basic understanding of real estate law.
6. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against an appraiser.

**43-23.3-08. Application prerequisites.** An applicant for a permit as an apprentice, licensed, certified residential, or certified general appraiser must successfully complete the education requirements established by the board.

**43-23.3-09. Appraisal experience.** The board may issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who possesses the minimum experience requirements established by the board. The board may require an applicant to furnish, under oath, a detailed listing of the appraisal reports or file memoranda for which appraisal experience is claimed by the applicant. Upon request, the applicant shall provide to the board copies of appraisal reports or other documents that the applicant has assisted in preparing.

**43-23.3-10. Expiration of permit.** Permits expire on December thirty-first of each year. The expiration date of the permit must appear on the permit and no other notice of its expiration need be given to the permittee.

**43-23.3-11. Temporary permit.**

1. The board may issue a temporary permit to an applicant who is apprentice, licensed, or certified in good standing by another state. The board may deny a temporary permit to an applicant whose permit, apprenticeship, license, or certification was revoked, suspended, or otherwise subjected to discipline by any state or jurisdiction.
2. An applicant for a temporary permit shall file with the board a designation in writing which appoints the chairman of the board to act as the applicant's licensed agent upon whom all judicial and other process or legal notices directed to the applicant may be served. Copies of the appointment, certified by the chairman of the board, may be received in evidence in any proceeding and must be given the same effect as the original. In the written designation, the applicant shall agree that any lawful process against that individual which is served upon the agent is of the same legal force as if served upon the applicant, and that the authority of the agent continues in force as long as any liability of the applicant remains outstanding in this state. Upon the receipt of any process or notice, the chairman shall mail a copy of the process or notice by certified mail, return receipt requested, to the last-known business address of the applicant.
3. The board may issue a temporary permit to an applicant if the applicant agrees in writing to abide by this chapter and to submit to the jurisdiction of the board.

4. The board shall issue a temporary permit to an applicant who has complied with this section. The board may require the applicant to pay a fee. The board shall determine the amount of the fee and the duration of the temporary permit.

**43-23.3-12. Permit renewal.** To renew a permit, the permittee shall apply to the board and pay the required fee. With the application for renewal, the appraiser shall present evidence of having completed the continuing education requirements for renewal. The board may adopt rules to allow permits to be assigned to inactive status. Permits assigned to inactive status are subject to disciplinary action and activation of an inactive permit may be subject to a denial by the board.

**43-23.3-13. Principal place of business.** A permittee shall notify the board of the address of the permittee's place of business. Within twenty days of a change in the address of the place of business, the permittee shall give written notification of the change to the board and pay the change of address fee.

**43-23.3-14. Permit number displayed with signature.** A permittee shall place the permittee's permit number adjacent to the permittee's signature on an appraisal report, contract, or other writing used by the permittee in conducting appraisal activities.

**43-23.3-15. Use of designation.** The terms "apprentice appraiser", "licensed appraiser", "certified residential appraiser", "certified general appraiser", and "certified appraiser" may only be used to refer to an individual who holds a permit under this chapter and may not be used following or immediately in connection with the name or signature of any other individual or person or in a manner that might be interpreted as referring to any other individual or person other than the individual who holds the permit. This section does not prohibit a licensed or certified appraiser from signing an appraisal report on behalf of a corporation, limited liability company, partnership, or firm.

**43-23.3-16. Action for fee.** No claim for relief may be instituted in any court of this state for compensation for an act done or service rendered as an apprentice, licensed, or certified appraiser unless the appraiser held a permit to practice under this chapter at the time of offering to perform the act or service or procuring a promise to contract for the payment of compensation for a contemplated act or service as an apprentice, licensed, or certified appraiser.

**43-23.3-17. Retention of records.** An apprentice, licensed, or certified appraiser shall retain, for at least five years, originals or copies of all written contracts engaging the permittee's services for appraisal work and all reports and supporting data assembled and formulated by the permittee in preparing the reports. The period for retention of records applies to each engagement of the services of the permittee and commences upon the date of the submission of the appraisal to the client unless, within that period, the permittee is notified that the appraisal report is involved in litigation, in which event the period for the retention of records commences on the date of the final disposition of the litigation. The permittee shall make available for inspection and copying by the board on reasonable notice all records required to be maintained.

**43-23.3-18. Standards of professional appraisal practice.** An apprentice, licensed, or certified appraiser shall comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation.

**43-23.3-19. Continuing education.** The board shall adopt rules for the implementation of continuing education requirements to assure that permit renewal applicants have current knowledge of appraisal theories, practices, and techniques that provide a high degree of service and protection to the public. The rules must establish:

1. Policies and procedures for obtaining board approval of courses of instruction.
2. Standards, policies, and procedures to be applied by the board in evaluating an applicant's claims of equivalency.

3. Standards, monitoring methods, and systems for recording attendance by course sponsors.

**43-23.3-20. Fees.** The board may charge apprentice, licensed, and certified permittees and educational providers or promoters reasonable fees to help offset costs of operating the board. The board shall establish the charges by rule.

**43-23.3-21. Disposition of fees.** The board, or its designated representative, shall deposit all fees collected by the board in a separate account. Disbursements from the account may not exceed the moneys credited to it. The board's designated representative shall review and pay appropriate charges against the account for services provided to the board.

**43-23.3-22. Disciplinary proceedings.**

1. The board may deny an application for, refuse to renew, suspend, or revoke a permit, impose a monetary fine, or issue a letter of reprimand, when the applicant or permittee has:
  - a. Procured or attempted to procure a permit by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or through fraud or misrepresentation.
  - b. Failed to meet the minimum qualifications established under this chapter.
  - c. Paid money other than provided for by this chapter to any member or employee of the board to procure a permit.
  - d. Been convicted, including a conviction based upon a plea of guilty or nolo contendere, of a felony or of a crime that is substantially related to the qualifications, functions, and duties of a person developing and communicating appraisals to others.
  - e. Performed an act involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially that person or another person, or with the intent to injure substantially another person.
  - f. Violated any standard for the development or communication of appraisals as provided in this chapter.
  - g. Failed or refused without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
  - h. Acted with gross negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.
  - i. Willfully violated this chapter or rules of the board.
  - j. Accepted an appraisal assignment when the employment is contingent upon the reporting of a predetermined estimate, analysis, or opinion, or where the fee is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.
  - k. Violated the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency.

1. Had entry of a civil judgment against the person on grounds of fraud, misrepresentation, or deceit in the making of an appraisal.
2. In a disciplinary proceeding based upon a civil judgment, the permittee must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

**43-23.3-23. Penalties.** A person acting or purporting to act as an apprentice, licensed, or certified appraiser without holding a permit to practice is guilty of a class A misdemeanor. An appraiser, apprenticed, licensed, or certified in another state, who engages in, advertises, conducts the business of, or acts in any capacity as an appraiser without first obtaining a temporary permit is guilty of a class A misdemeanor. In addition to any other penalty, a person receiving any money or other compensation in violation of this chapter is subject to a penalty of not less than the amount of the sum of money received and not more than three times the sum in the discretion of the court.



Administrative Code Title 43 Occupations & Professions: Recap of Board Terms/Make Up of Board Members									
							Board Members		
							Bd Mbr Terms	Total #	From the
								Industry	Public
									Other
									Term Limits
43-01	Abstracters	6	3	1	(Not Specified)				N
43-02.2	Accountants	5	5	5					Y 2 terms
43-04	Barbers	3	3	3					N
43-03	Architects & Landscape Architects	6	3	3					N
43-06	Chiropractors	5	5	5					N
43-11	Cosmetology	3	3	3					N
43-28	Dentists	5	7	6	1				N 2 terms
43-09	Electricians	5	5	2	1	2			N
43-19.1	Engineering & Land Surveyors	5	5	5					N
43-17	Physicians & Surgeons	4	12	10	2				Y 2 successive terms
43-15	Pharmacists	5	7	6	1				N
43-41	Social Work	3	6	4	2				Y 2 consecutive terms
43-25	Massage Therapists	3	5	3	2				N
43-10	Funeral Service Practitioners	4	4	3		1 health			N
43-23	State Real Estate Commission	5	5	3	2				N
43-32.4	Real Estate Broker Trust Accts	3	5	3		2 non-firs			Y 2 consecutive terms
43-23.3	Real Estate Appraisers	5	5	3	1	1 financial			N
43-12.1	Nurses Practitioners Act	4	9	8	1				Y 2 consecutive terms
43-40	Occupational Therapy	3	5	4	1				Y 2 consecutive terms
43-13	Optometrists	5	7	5	2				N
43-05	Podiatrists	4	6	4	1	1 Physician			Y 2 successive unless 2 yr have lapsed
43-18	Plumbers	4	5	2	1	2 engineers			N
43-29	Veterinary	3	3	3					N
43-26.1	Physical Therapist	5	6	5	1				N
43-45	Addiction Counselors	3	7	5	2				Y 2 consecutive terms
43-37	Audiology/Speech/Lang Path	3	7	6	1				Y 2 consecutive terms
43-32	Psychologists	3	5	5					N
43-33	Hearing Aid Dealers	4	10	8	2				Y may not be reapt until 1 yr after exp of 2nd term
43-30	Investigative & Security Specialists	4	not less than 5 no more than 11						N
			majority must be private investigator or security profess.						
43-34	Nursing Home Administrators	3	9	5	1	3			N
43-35	St Bd of Water Well Contractors	4	7	4	1	2 st officials			N
43-36	Profession Soil Classifiers	5	5	3	2				N
43-39	Athletic Trainers	4	5	3	1	1 Phys			Y 2 successive terms
43-42	Respiratory Care Practitioners	3	7	4	1	2 health			Y 2 successive terms
43-44	Dieticians & Nutritionists	3	5	4	1				Y 2 consecutive terms
43-53	Marriage & Family Therapy Practice	4	5	4	1				Y 2 consecutive terms
43-48	Clinical Laboratory Personnel	3	7	3	2	2 health			N
43-47	Counselors	3	5	3	2				N
43-49	Reflexologists	3	3	3					N

62nd Legislative Assembly of North Dakota

Re: Proposed Legislation Impacting North Dakota Appraisal Board  
Senate Bill No. 2187

Mr. Chairman and Members of the Committee,

My name is Kathy J. Maier and I live and work as a certified residential appraiser in Bismarck (Maier Appraisal and Consulting, LLC). Prior to working in private appraisal practice, I was employed as the Bismarck City Assessor. I have been a Licensed Appraiser for 19 years and within the past 2 years completed the requirements to achieve my Certified Residential designation.

Today I speak to you as an appraiser and small business owner who has not served on the Appraisal Board but has professionally benefited by the expertise of the current appraisal board. I am here today to state my opposition to the proposed changes to the North Dakota Century Code relative to the North Dakota Appraisal Board.

My comments are two fold:

- 1.) When I originally achieved my appraiser license in 1992, I was employed by the City of Bismarck Assessing Department as a City Appraiser. At that time, there were no means by which an appraiser who practiced a Mass Appraisal model could gain licensure for private practice.

The Appraisal Board at that time worked extensively with North Dakota Assessors, who practice a mass appraisal model, to establish what could be used as comparable equivalency hours of experience to gain licensure in the state. This process was extremely detailed and required excellent working knowledge of both private appraisal practice standards as well as mass appraisal standards.

At that time, the Appraisal Board was the same in member content as today.

It is my opinion that the amount of time appraisal board members devoted to this project, is only overshadowed by the amount of appraisal expertise that was required to make these decisions.

It is further my opinion that if board membership is to be increased in number, it should be increased in number with appraisers who have the active working knowledge to make the meaningful decisions that are required of the board.

Finally, it is my experience that current board structure, with 3 appraisers, 1 member of the general public and 1 member from the financial industry, has served the state of North Dakota well and I see no benefit to changing that content.

- 2.) My second point is the following: In 2008 I achieved my Certified Residential Appraiser designation from the ND Appraisal Board after completed the required education, experience and testing requirements. At the time of my application for certified residential designation, I forwarded several appraisal reports to the board for their consideration. The reports were reviewed by a neutral private consultant for accuracy, content and adherence to the Uniform Standards of Appraisal Practice. The test was proctored by a neutral party and the education hours and experience hour requirements are clearly stated in state law.

It is my experience and opinion that the process for application for licensing is clear, concise and neutral.

Senate Bill No. 2187

January 21, 2011

Timothy R. Timian

Representing the ND Chapter of the American Society of Farm Managers and Rural Appraisers.

The ND chapter has 48 members and is the largest appraisal organization in the state.

We are in opposition to Senate Bill No. 2187!

1. We think a five member board is adequate for the North Dakota Appraisal Qualifications and Ethics Board. Their mission is; The Board licenses and certifies real estate appraisers, sets continuing education requirements, and handles complaints. Members include three appraisers; one financial industry representative; and one public representative. The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota Bankers Association, and the North Dakota Credit Union League. The public member of the board may not be engaged in the practice of real estate appraising. We think the current board and structure had done a very good job of fulfilling their mission.
2. We see no point in adding a builder industry representative or a realtor representative. They would bring no more insight to the board, due to the board's defined mission and any lack of understanding of the appraisal industry and would be a hindrance. The North Dakota Real Estate and Ethics Board has to follow FIRREA; Title XI of FIRREA empowered federal mortgage regulators to adopt standards for real estate appraisal and promulgate licensing requirements to the states. To accomplish this, the Appraisal Subcommittee (ASC) was formed, with representatives from the various federal mortgage regulatory agencies. The ASC provides oversight and input to the Appraisal Foundation, which in turn promulgates the Uniform Standards of Professional Appraisal Practice, through the Appraisal Standards Board (ASB) and the minimum standards for appraisal licensure through the Appraiser Qualifications Board (AQB). The Federal Law mandates what the states can do, so the mission of the North Dakota Real Estate and Ethics Board has to follow federal law.
3. A member may not accept an appraisal if the services are provided for the state or are related to real estate in which the state has a direct interest. This issue is covered by USPAP under the Ethics Rule (U7-U9 attached). Also, due to the limited pool of qualified appraisers for complex appraisal issues, eliminating any professional appraiser is not in the public's best interest.
4. The board shall establish standards for approval and disapproval of applications for permits. This is a non-issue as North Dakota will issue a temporary permit for any appraiser that is licensed in a state with equivalent or greater licensing requirements.

Why would we want to let appraisers who are less qualified than a North Dakota appraiser practice in North Dakota?

5. Adopt rules that clearly and concisely establish standards for approval of application permits. The rules must include a requirement that application disapproval clearly specify the basis for the disapproval. Again this is already in place! Personally I have received temporary permits in 6 other states and the rules are all the same, if you meet the licensing requirements of the state you are applying for a temporary permit, you will receive a temporary permit.
6. Keep permittees informed of board activities ... The North Dakota Board cannot be responsible for keeping appraisers informed of all its activities that are not North Dakota State Certified. Again I have had temporary permits in 6 different states, they do not inform me of their activities nor should they as I am not certified or licensed in their state. These are temporary permits to appraise one property in another state and one property only!
7. In a timely manner the board shall issue ... If an appraiser has had his or her license revoked in North Dakota, why would we then issue him or her a temporary license? This is why we have a North Dakota Board that is doing their job!
8. There are no other North Dakota state boards we are aware of for any profession that have a minority of their professional members on their board. Appraisal professionals have a duty to uphold USPAP and that is their guide!

Thank you for your time!

## ETHICS RULE

An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.

An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

Comment: This Rule specifies the personal obligations and responsibilities of the individual appraiser. An individual appraiser employed by a group or organization that conducts itself in a manner that does not conform to USPAP should take steps that are appropriate under the circumstances to ensure compliance with USPAP.

This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The Conduct, Management, and Confidentiality sections apply to all appraisal practice. The Record Keeping section applies to appraisal practice performed under STANDARDS 1 through 10.

Conduct:

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

An appraiser:

- must not perform an assignment with bias;
- must not advocate the cause or interest of any party or issue;
- must not accept an assignment that includes the reporting of predetermined opinions and conclusions;
- must not misrepresent his or her role when providing valuation services that are outside of appraisal practice;
- must not communicate assignment results with the intent to mislead or to defraud;
- must not use or communicate a report that is known by the appraiser to be misleading or fraudulent;
- must not knowingly permit an employee or other person to communicate a misleading or fraudulent report;
- must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value;
- must not engage in criminal conduct; and
- must not perform an assignment in a grossly negligent manner.

Comment: Development standards (1-1, 3-1, 4-1, 6-1, 7-1 and 9-1) address the requirement that "an appraiser must not render appraisal services in a careless or negligent manner." The above requirement deals with an appraiser being grossly negligent in performing an assignment which would be a violation of the Conduct section of the ETHICS RULE.

## ETHICS RULE

231 If known prior to accepting an assignment, and/or if discovered at any time during the assignment,  
232 an appraiser must disclose to the client, and in the subsequent report certification:

- 233 • any current or prospective interest in the subject property or parties involved; and
- 234 • any services regarding the subject property performed by the appraiser within the three  
235 year period immediately preceding acceptance of the assignment, as an appraiser or in any  
236 other capacity.

237 Comment: Disclosing the fact that the appraiser has previously appraised the property is permitted  
238 except in the case when an appraiser has agreed with the client to keep the mere occurrence of a  
239 prior assignment confidential. If an appraiser has agreed with a client not to disclose that he or she  
240 has appraised a property, the appraiser must decline all subsequent assignments that fall within the  
241 three year period.

### 242 Management:

243 An appraiser must disclose that he or she paid a fee or commission, or gave a thing of value in  
244 connection with the procurement of an assignment.

245 Comment: The disclosure must appear in the certification and in any transmittal letter in which  
246 conclusions are stated; however, disclosure of the amount paid is not required. In groups or  
247 organizations engaged in appraisal practice, intra-company payments to employees for business  
248 development do not require disclosure.

249 An appraiser must not accept an assignment, or have a compensation arrangement for an  
250 assignment, that is contingent on any of the following:

- 251 1. the reporting of a predetermined result (e.g., opinion of value);
- 252 2. a direction in assignment results that favors the cause of the client;
- 253 3. the amount of a value opinion;
- 254 4. the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or
- 255 5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific  
256 to the assignment's purpose.

257 An appraiser must not advertise for or solicit assignments in a manner that is false, misleading, or  
258 exaggerated.

259 An appraiser must affix, or authorize the use of, his or her signature to certify recognition and  
260 acceptance of his or her USPAP responsibilities in an appraisal, appraisal review, or appraisal  
261 consulting assignment (see Standards Rules 2-3, 3-6, 5-3, 6-9, 8-3, and 10-3). An appraiser may  
262 authorize the use of his or her signature only on an assignment-by-assignment basis.

263 An appraiser must not affix the signature of another appraiser without his or her consent.

264 Comment: An appraiser must exercise due care to prevent unauthorized use of his or her signature.  
265 An appraiser exercising such care is not responsible for unauthorized use of his or her signature.

### 266 Confidentiality:

267 An appraiser must protect the confidential nature of the appraiser-client relationship.

268 An appraiser must act in good faith with regard to the legitimate interests of the client in the use of  
269 confidential information and in the communication of assignment results.

270 An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations  
271 applicable in an assignment.<sup>2</sup>

272 An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone  
273 other than:

- 274 • the client;
- 275 • persons specifically authorized by the client;
- 276 • state appraiser regulatory agencies;
- 277 • third parties as may be authorized by due process of law; or
- 278 • a duly authorized professional peer review committee except when such disclosure to a  
279 committee would violate applicable law or regulation.

280 A member of a duly authorized professional peer review committee must not disclose confidential  
281 information presented to the committee.

282 Comment: When all confidential elements of confidential information and assignment results are  
283 removed through redaction or the process of aggregation, client authorization is not required for  
284 the disclosure of the remaining information, as modified.

#### 285 Record Keeping:

286 An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting  
287 assignment. A workfile must be in existence prior to the issuance of a written or oral report. A  
288 written summary of an oral report must be added to the workfile within a reasonable time after the  
289 issuance of the oral report.

290 The workfile must include:

- 291 • the name of the client and the identity, by name or type, of any other intended users;
- 292 • true copies of any written reports, documented on any type of media (A true copy is a replica  
293 of the report transmitted to the client. A photocopy or an electronic copy of the entire signed  
294 report transmitted to the client satisfies the requirement of a true copy.);
- 295 • summaries of any oral reports or testimony, or a transcript of testimony, including the  
296 appraiser's signed and dated certification; and
- 297 • all other data, information, and documentation necessary to support the appraiser's  
298 opinions and conclusions and to show compliance with USPAP, or references to the  
299 location(s) of such other documentation.

<sup>2</sup> Pursuant to the passage of the Gramm-Leach-Bliley Act in 1999, numerous agencies have adopted privacy regulations. Such regulations are focused on the protection of information provided by consumers to those involved in financial activities "found to be closely related to banking or usual in connection with the transaction of banking." These activities have been deemed to include "appraising real or personal property." (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313.)

Harvey Huber  
Testimony on SB2187

Chairman Dever, Members of the Committee:

My name is Harvey Huber. I live and work in Jamestown, North Dakota. I appreciate the opportunity to provide this brief testimony regarding the proposed changes to the North Dakota Real Estate Appraisal Board [NDREAB] as embodied in SB2187.

I am President/CEO of Unison Bank in Jamestown and have served in that capacity for 12 years. Prior to my relocation to Jamestown I worked at the Union State Bank in Hazen, ND for 30 years and served as President/CEO of Union State Bank in Hazen for 19 years.

I have had the privilege of serving on the North Dakota Real Estate Appraisal Board since 1994. Prior to my service on the North Dakota Real Estate Appraisal Board I served on the Board of Trustees of the Appraisal Foundation for six years as the representative from the American Bankers Association. The Appraisal Foundation has two subsidiary boards, one board establishes minimum education and experience requirements for all U.S. appraisers and the second board provides standards for conducting real estate appraisals for all U.S. appraisers.

Federal legislation resulted from the savings and loan crisis in the 1980's. Before the passage of the federal legislation in 1989, there were no universally accepted appraisal standards, no formal licensing of appraisers, no appraiser qualification standards and no laws requiring the use of appraisals.

Throughout my early years as a banker it was very common for bankers to provide valuation services...oftentimes for estates and for those who were interested in selling property and certainly for our internal use within the bank. It all changed dramatically beginning in 1989 with the passage of federal legislation that created a regulatory framework, including a federal agency, the Appraisal Subcommittee, with the authority to monitor state boards, including the North Dakota Real Estate Appraisal Board.

With passage of the federal legislation and development and adoption of the uniform standards for professional appraisal practice [USPAP], appraising became a profession. Today, if an appraiser were to practice as a certified residential general appraiser significant college education is required. The leading appraisal organizations in this country now partner with



Harvey Huber  
Testimony on SB2187

universities to offer a master's degree in real estate while allowing students to simultaneously earn credit to advanced designations within their respective appraisal organization.

The point I am making with this too lengthy introduction is this: The competence and commitment required to become a licensed or certified appraiser is significant. The competence and attention to detail required with appraisal reports that meet the minimum uniform standards for professional appraisal practice are equally significant. It has never been more demanding to become a licensed or certified appraiser than it is today. It will be more taxing in the future.

There is NO need for any of the changes being proposed with SB2187. With the mandates of the Appraisal Subcommittee, some statutory change will need to be made in the 2013 session of the North Dakota Legislature dealing with appraisal management companies. If members of the committee have specific questions regarding those changes, please pose those questions to Mr. Joe Ibach, Chairperson of the North Dakota Real Estate Appraisal Board who will physically be in attendance at the hearing.

Regarding composition of the NDREAB, having five members is adequate and having three members [a majority] be appraisers is imperative. Even more important is to have highly competent, strongly committed, extensively experienced, respected appraisers serving on the NDREAB. At each face-to-face and telephonic board meeting, I have the opportunity to observe the skills of Mr. Joe Ibach [commercial and residential], Mr. Wade Iverson [agricultural] and Ms. Carolyn Corwin [residential] with their respective specialized areas of practice and with their broad understanding of the uniform standards for professional appraisal practice.

I strongly caution the committee to not support increasing the size of the NDREAB. North Dakota is very fortunate to have a very low cost of overhead with the administrative burden associated with the NDREAB.

When Governor Ed Schafer appointed me to the NDREAB in 1994, Mr. Gerald Galloway, a Dickinson attorney, served as the public member. Following Mr. Galloway's retirement, Governor John Hoeven appointed Mr. John McMaster, a Williston attorney, to serve as the

Harvey Huber  
Testimony on SB2187

public member. It has been especially helpful with the disciplinary deliberations of the NDREAB to have a board member with a legal background serving as the public member.

I will leave it others who will testify to comment as to the benefit of having someone from the financial services industry serving on the NDREAB.

Regarding terms of board members, because board members are appointed by the ND Governor and do not reappoint themselves there is no reason to limit terms. Further because there are only about 200 licensed/certified appraisers in North Dakota the pool of individuals with the requisite skills and available time is small. It has been my observation that Messrs. Iverson and Ibach and Ms. Corwin have been very impartial and very objective both with the application process and with disciplinary proceedings.

The other issues in the SB2187 addressing having an appraiser board member from a city with a population less than 4,000, prohibiting a board member from accepting an appraisal assignment in which the State of North Dakota has an interest and the reciprocity issue are being addressed by others with either written or oral testimony, thus will not comment further on those issues.

In closing let me reiterate that the State of North Dakota is well served with the existing statutory framework. There is no need to initiate any change. Please vote DO NOT PASS on SB2187. Thank you for the opportunity to provide comment.

Sincerely,

Harvey Huber  
622 7<sup>th</sup> St. Loop NW  
Jamestown, ND 58401

**SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**

**January 21, 2011**

**9:00 a.m. – Missouri River Room**

**North Dakota Department of Transportation**

**Mark Gaydos, P.E., Environmental and Transportation Services Director**

**SB 2187**

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Members of the committee, my name is Mark Gaydos and I serve as Environmental and Transportation Services Director for the North Dakota Department of Transportation (NDDOT). The Department would like to make the committee aware of a concern we have with SB 2187.

Chapter 49 of the Code of Federal Regulations, part 24, the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted programs, requires the Department to review and qualify appraisers that complete work on federally assisted projects. The Department is concerned with page 2, lines 22 and 23 of SB 2187, which does not allow board members to provide services for state work.

Currently, the Department has about 10 appraisers that have been approved to do work on federally assisted projects. The bill as proposed we feel could reduce the number of appraisers that are currently qualified to complete work for the Department of Transportation and may limit the Department's ability to deliver the planned projects as outlined in our Statewide Transportation Improvement Program (STIP).

I would be happy to answer any questions at this time. Thank you.

# NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

PO BOX 1336  
BISMARCK, NORTH DAKOTA 58502-1336  
TELEPHONE & FAX: (701) 222-1051  
E-mail: [icampbell@bis.midco.net](mailto:icampbell@bis.midco.net)  
Website: [www.ndreab.org](http://www.ndreab.org)

## North Dakota Appraisal Board Proposes Amending Senate Bill 2187 with the following recommendations:

### PAGE 1

Lines 8-18: The Board opposes the language as proposed and recommends the following language.

4. The governor shall appoint the board. The board must consist of ~~five~~ seven members. One member must represent ~~the public member~~ the real estate sales industry or the homebuilder industry; one member must ~~represent~~ be a representative of the financial industry; one member must either be representative of the appraisal management company industry or the legal industry; and ~~three~~ four members must be appraisers, at least one of which is experienced in the appraisal of agricultural property. ~~The appraiser members first appointed to the board must be members in good standing of an organization belonging to the appraisal foundation or have the equivalent of five years of full time experience as an appraiser in this state. Thereafter, each~~

IN LIGHT OF NEW INFORMATION RECEIVED VERIFYING THAT THE BOARD IS NOT FEDERALLY MANDATED TO HAVE A REPRESENTATIVE FROM THE AMC INDUSTRY APPOINTED TO THE BOARD THE BOARD WOULD LIKE TO PROPOSE AN ALTERNATIVE TO THE ABOVE LANGUAGE.

The governor shall appoint the board. The board must consist of five members. Two of the members shall represent the real estate sales, homebuilders, financial, appraisal management, or the legal industries; three members must be appraisers, at least one of which is experienced in the appraisal of agricultural property.

Lines 19-20: The Board agrees with language as written.

Lines 21-24, Page 2 Lines 1-2. The Board opposes the language as proposed and recommend removing current language.

~~The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, credit union. Each of these entities may submit two names of candidates to the governor.~~

### PAGE 2:

Lines 3-6: The Board opposes the language as proposed and therefore has removed it.

e. The governor shall appoint the builder industry representative from a list of two

qualified individuals submitted by the North Dakota association of builders.

d. The governor shall appoint the realtor representative from a list of two qualified individuals submitted by the North Dakota association of realtors.

**Line 7-8:** The Board proposes the elimination of Lines 7 & 8:  
~~The public member of the board may not be engaged in the practice of real estate appraising.~~

**Lines 9-15** The Board is in opposition to term limits and recommends the following language.

2. The term of each member is five years, ~~except that of the members first appointed, one shall serve for five years, one shall serve for four years, one shall serve for three years, one shall serve for two years, and one shall serve for one year.~~ A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a member for cause. The

**IF TERM LIMITS ARE INEVITABLE , THE BOARD PROPOSES THE FOLLOWING:**

A member of the board may not serve for more than two successive terms. A member may not be reappointed to the board after serving two successive terms unless at least one year has elapsed since the member last served on the board.

**Lines 16-21:** The Board agrees with the language as written.

**Lines 22-23:** The Board opposes the proposed language and therefore recommends it be removed. "A member may not accept an appraisal assignment if the services are provided for the state or are related to real estate in which the state has a direct interest."

**Lines 24-30:** The Board agrees with the language as written

**PAGE 3:**

**Lines 1-15:** The Board agrees with the language as written

**Lines 16-19:** The Board supports the following language as revised (addition of "quarterly" and deletion of "hearings notices").

h. Keep permittees informed of board activities, including providing notification of board member terms and any upcoming board vacancy; internet posting of quarterly meeting notices, and minutes; internet posting of proposed and final rule changes.

**Lines 20-31:** The Board agrees with the language as written.

**PAGE 4:**

**Line 1:** The Board agrees with the language as written.

**Line 2:** The Board opposes "shall" and supports the language as written.  
The In a timely manner the board may issue a permit to an applicant who is licensed or

**Lines 3-6:** The Board agrees with the language as written.

**Lines 7-8:** The Board opposes the proposed language and recommends it be removed.  
"Board reciprocity consideration may not be based on review standards."

**Lines 9-14:** The Board opposes all of Section 4.

~~SECTION 4. APPLICATION: The ten-year limit for board members under section 1 of this Act~~

~~applies to all board members serving on the effective date of this Act. In order to maintain~~

~~staggered board member terms the governor shall appoint an individual to complete the~~

~~remainder of the term of a board member who becomes ineligible due to the ten-year limitation.~~

~~In order to initiate staggered board member terms for the two new board members the governor~~

~~may appoint one new member to serve a four-year term.~~

## **Realtor/Builder/Banker**

### **Board Makeup**

7 members – 1 AMC

1 Financial

1 Builder

1 Realtor

3 Appraisers, 1 of which is Ag

Keep language regarding who submits names.

### **Term Limits**

Limit to two Consecutive Terms

### **Business with State by Board Member**

Both sides agree to remove this prohibition.

### **Reciprocity**

Replace "In a timely manner" with "within 30 days"

## **Appraisers**

### **Board Makeup**

Prefer 5 members – 2 from realtor, builder, financial, AMC, or legal

If 7 members – 1 Realtor or Builder

1 Financial

1 AMC or legal

4 Appraisers, 1 of which is Ag

Remove language regarding who submits names

### **Term Limits**

Oppose term limits, but if inevitable – Limit to two consecutive terms with one year before a third term.

### **Business with State by Board Member**

Both sides agree to remove this prohibition.

**Tweak language page 3, lines 16 -19**

### **Reciprocity**

Keep language "In a timely manner", change "shall" to "may". Remove language at end of section regarding review.

Delete Section 4

Proposed amendments to SB 2187

2-9-2011

Page 1 line 9: remove the word "public"

Page 1 line 9: after the word "member" insert: of an appraisal management company

Page 1 lines 13: after the word property remove the remaining sentence

Page 2 lines 7 and 8: remove lines 7 and 8

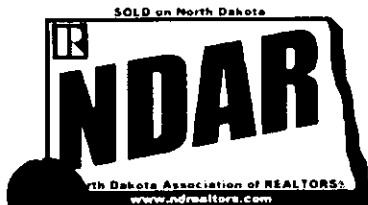
Page 2 line 12: remove the words: "ten years" and replace with: two consecutive terms

Page 2 lines 22 and 23: remove lines 22 and 23

Page 4 line 2: remove the words: "In a timely manner" and replace with: Within 30 days

Page 4 line 2: remove the word: "may" and replace with shall





2011

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# North Dakota Association of REALTORS®

318 West Apollo Avenue – Bismarck, ND 58503-1404

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*Testimony 1*

Testimony for Senate Bill 2187

House Industry, Business and Labor Committee

March 15, 2011

Mr. Chairman and Members of the Industry, Business and Labor committee, my name is Claus Lembke. I am the Government Affairs Director for the North Dakota Association of REALTORS®. We are a statewide trade association with nearly 1500 members located throughout the state and organized in 8 local Board of REALTORS®.

We feel that the current appraisal laws and practices do not reflect today's practical demands of real estate transactions. The proposed changes in SB 2187 are designed to improve the availability of appraisers, it removes some fence building, allows for simpler reciprocity, better defines standards for approval or disapproval and elevates the Appraisal Qualification and Ethics Board to a professional level.

For years we have heard of unbelievable treatment of appraisers and applicants. At first we thought that these were a few isolated cases. Then recently we noticed that these issues have become more prevalent and a statewide concern.

We are finding that loans are being approved in a week but many appraisals take a few months to be completed. We also found that Builders and Bankers were getting frustrated with these long delays. In some communities appraisers are being bribed with a higher fee in exchange for a more timely completion of an appraisal. We find that very unprofessional.

Last summer we contacted Builders and Bankers to identify the problems and to look for solutions.

It looks to us like the Board's actions and procedures discouraged many individuals from seeking appraisal licenses and many lost their license without explanation of what they did wrong. They quit out of frustration. Many were denied reciprocity from another neighboring state even though they were in good standing in their home state, which is governed by the same national minimum standards. Those that ultimately got licensed had to wait, sometimes for years, before they were approved. One application has been before the Board since 2005.

We worked with Senator Olafson and the co-sponsors Senators Judy Lee and Heckaman and Representatives RaeAnn Kelsch, Boehning and Wieland to draft SB 2187. We are attempting to make licensure less complicated, create uniform standards, tear down some fences that currently keep appraisers out, hold the board more accountable, and make the process more transparent.

The most shameful issue is that many appraisers, under investigation or not, are afraid to testify in fear of retaliation from the board. This is not acceptable here in North Dakota and the United States. I have personally apologized on behalf of our state to several people who were treated less than professionally by the Board. Please help us to fix this situation by passing SB 2187.

Thank you for your time and I am ready to answer questions for the committee.

ND Association of Realtors  
318 West Apollo Avenue  
Bismarck, ND 58503

Dear Association,

This letter is in response to SB 2187 and the need for reform within the appraisal industry of North Dakota. First of all I would like to thank you for choosing to help the appraisal industry. It is essential that other industries with similar interests help out and defend the appraisers because the appraisers do not have the same lobbying abilities as the larger industries.

As an appraiser for nearly a decade, I have become increasingly disappointed with the professionalism and equity of the North Dakota Real Estate Appraiser and Qualifications Board. I have been trying to increase my license level in North Dakota, even though I have had a certified level license in my home state of Minnesota since 2008. As stated in the board's recently available minutes and Chapter 101-02-02.1; the board grants reciprocity to all those appraisers with licenses in states with substantially equivalent requirements. In 2008 the state of Minnesota started reviewing work product to determine USPAP compliance. By doing so, anyone licensed in Minnesota after that time met the reciprocity requirements as stated in North Dakota law. I currently have a Certified General Appraisal License in Minnesota, which I applied for after the 2008 changes were in effect. My appraisal work product was reviewed, I was found to be in compliance with USPAP and I was issued a license. Ever since that time I have been trying to acquire a license through reciprocity in North Dakota but have always been told that I was not allowed to and had to apply for a license and meet their requirements and that reciprocity did not apply to Minnesota residents.

After reading the recently available minutes for the appraisal board, I was concerned when I read that other appraisers have been receiving reciprocity in

other states like Minnesota, Arizona and Wyoming. I am confused as to why they will not allow me to apply through reciprocity when others are allowed to. This is not the current law in North Dakota. I do not feel that the board has the right or authority to ignore the laws of the state. Also, I have seen that the board will send appraisals for review to a second review appraiser when they do not agree with the results. Most, if not all of the board approved review appraisers are certified USPAP instructors. There is no logical reason for the board to keep sending the same appraisals for review if one reviewer states that they meet the requirements of USPAP. In general it appears that the current board is working against the appraisers instead of for or even with the appraisers of the state.

These are the reasons why I fully support the need for SB 2187. I would like to see an appraiser majority on the board, but I feel that the rest of the bill is both fair and needed. The other thing that should be defined in the bill is that board members can do appraisals for the Bank of North Dakota since typically the appraisals are ordered through a different bank and should not be lumped together with appraisals done specifically for the state. As for term limits, I feel that 10 years on the board is plenty of service and any longer promotes burnout of the members. There are plenty of good appraisers that would serve on the board. I would thank the current members for their years of service and invite them to look to the future and a new board with the rest of us.

Thanks again,

Appraiser

Chairman Keiser and members of the House Industry, Business and Labor Committee, I am writing you today to express to you just some of the issues we are facing in regards to the appraisal process in this state. The issues that are being addressed in this Bill are a good start to opening up the bottle neck in our industry and would also encourage a basis of an open working relationship between our professional groups.

A year and a half ago the average appraisal cost \$350 and would take up to 4-6 weeks to complete. After waiting the first 4 weeks several of my clients told me they paid double the fee to ensure that they would have an appraisal within 5 days. Four weeks for this process is much too long. Today appraisals average \$600 and are taking a minimum of 8 weeks and up to 3 plus months to complete. This causes several problems.

Appraisals control whether a project gets built or not, therefore, by waiting a minimum of two months we are directly slowing down commerce and tying the hands of many small business owners. Not only does it slow down my business but it slows down all of my vendors and subcontractors as well. We only have roughly 6 months to properly start a home project due to our frigid climate. When we are delayed two months for an appraisal projects typically get pushed back to the next building season or can even be stopped altogether if we can't get them started during the current year. From a small business cashflow standpoint, this limits the strength of my company and ability to reinvest into my community.

Secondly, we have many clients that have designed the home that they need and /or want for their families, are willing build, are able to afford, and have received a pre-approval from their bank.

This being said, the appraisal has stopped progress because no accurate comparable sales are in the area. We are seeing that our clients, who want new trends and styles, who are building with today's costs of materials and labor, are being held to the standards of decades past. Market value is determined by what people want, what people are asking for, and what they can afford to pay and should not be solely subjected to old incomparable comparables.


Thirdly, if our appraisers are so overwhelmed with work why do we not have more entering the market to balance out the demand? To become an appraiser one must be an apprentice under a certified appraiser for at least two years before being able to do the work on their own. Some appraisers have said that they are not willing to bring on additional workers because that will create a direct competitor to them. I have also had close friends, family members, and clients express to me that they have looked into and tried to become an appraiser only to find out that appraisal companies have only been letting family and close friends into the industry. No other industry has the capability to restrict competition and have that much control of the cost of services.

I have also been informed that if a project is above a certain dollar amount then an appraiser may choose not to do the appraisal. This is a problem because we are subject to only a limited number of appraisers and not all are approved to be used depending on which bank the client is with. If the appraisers in our state feel they can choose which projects to complete then we need to allow more appraisers into the market to encourage true competitiveness in our capitalist economy.

In 2010 my company lost over 1.2 million dollars in sales, in 2009 we lost just under 1 million dollars in sales due to the projects being pushed back to the following year. This was due to the length of the appraisal process, rural appraisals not being completed, and homes that were too unique they could not be appraised fairly and therefore subjected to a lesser comparable sale. For example, on one particular job, the appraisal was not completed in a timely manner. Therefore, we were unable to start the project before freeze up, the home owner walked away and I lost the sale. This was work that we were counting on to keep our employees busy over the winter. If the appraisal would have been completed in a timely yet realistic manner we could have built them the home they had been dreaming of when they needed it. As of today, we still have not received the appraisal.

I worked on a large remodel project with a family to develop a design and estimate. They were preparing for their second child and needed more bedrooms. They wanted to use unfinished space to complete the project. Their current mortgage was a 15 year note, and was to be refinanced to a 30 year note at the low interest rates offered this past summer. The refinancing included all of the costs of construction. By doing that the family would have expanded their home and had a lower monthly payment. Financing was originally approved, but because the house was a log home and labeled unique it did not appraise high enough to cover even 20% of the cost of construction.

Finally, it is unfair to charge double the fee for an unrealistic amount of time to have an appraisal completed. I can understand that a private appraisal company would want to accommodate the appraisal in which they can make a faster simpler dollar, but if all



financing in the construction industry is so dependent on the appraisal I would expect all requests to be treated with an equitable and timely manner.

These examples are just a glimpse at some of the problems we are encountering with the current appraisal process. This Bill will help to open our industry and move in the right direction. Thank you for your time and the opportunity to share my concerns.

Testimony 2

ND Association of Realtors  
318 West Apollo Avenue  
Bismarck, ND 58503

Dear Association,

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other states like Minnesota, Arizona and Wyoming. I am confused as to why they will not allow me to apply through reciprocity when others are allowed to. This is not the current law in North Dakota. I do not feel that the board has the right or authority to ignore the laws of the state. Also, I have seen that the board will send appraisals for review to a second review appraiser when they do not agree with the results. Most, if not all of the board approved review appraisers are certified USPAP instructors. There is no logical reason for the board to keep sending the same appraisals for review if one reviewer states that they meet the requirements of USPAP. In general it appears that the current board is working against the appraisers instead of for or even with the appraisers of the state.

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Thanks again,

Appraiser



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Testimony 3

## Testimony on Senate Bill 2187

House Industry, Business & Labor Committee

March 15, 2011

**Doreen Riedman, Executive Officer**  
**North Dakota Association of Builders**

Chairman Keiser and members of the House Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) encourages your support of Senate Bill 2187, relating to the ND Real Estate Appraisal Qualifications and Ethics Board.

The NDAB represents nearly 2,000 members statewide with employees numbering 46,589. We are affiliated with six local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, Minot, and Williston; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 160,000 members.

### BACKGROUND:

For approximately 16 months, we have been working with other partners in the housing industry – the ND Association of Realtors, ND Bankers Association and the Independent Community Banks of ND – to attempt to resolve issues all of our associations' members are having with appraisers in our state.

Together, our four groups met with the ND Real Estate Appraiser Qualifications and Ethics Board (NDREAQEB) in December of 2009, sharing complaints and other comments from our members.

Here are some of the complaints coming from our builders:

- Long waiting times for appraisals (minimum of eight weeks, and as long as three months or more) – especially if the appraisals are on more expensive homes or in rural areas; some have been shelved and then passed along to another appraiser, which then results in more waiting time
- Additional fees to get quicker appraisals
- Closing date delays; often affecting multiple families and properties

- Deals fell through, houses weren't built, remodels weren't done – this **adversely affects commerce and jobs** in our state; small businesses suffer, especially with the seasonal nature of our business
- Low-balling appraisals in attempt to adjust and control the marketplace
- Fence-building among appraisers; not allowing new people into the business
- Appraisers not accountable or dependable
- Appraisers don't "service" their customers; business simply comes to them
- With a limited number of appraisers in local areas, builders are hesitant to complete the NDREAQEB complaint form, fearing future retribution from appraisers

In our group discussion with the NDREAQEB, we wanted to make sure that all housing partners were aware of each others' responsibilities, so we put together a list of questions and answers. The NDREAQEB provided answers to our questions and our groups distributed them to our respective members (*attached*), put them on our websites, etc. We sincerely hoped this would open the communication lines, clear up any confusion, and things would improve along the way.

Not much changed during 2010 – the complaints were unrelenting, and we continued to communicate the challenges our industry was facing, trying to find solutions.

#### ENERGY VALUE APPRAISAL PROGRAM:

In September 2010, one of our builders attended a NDREAQEB meeting to describe his concerns on the low appraised values on homes with energy efficient products and technologies. The NDREAQEB suggested that he, along with the ND Association of Builders, develop a tool to help appraisers more accurately determine values on homes with structural insulated panels (SIPs) or geothermal systems, for example.

We eagerly formed a task force and met weekly during the fall to develop our Energy Value Appraisal Program that scores and adds values to homes based on Home Energy Rating System (HERS) testing. One member of our task force was Carl Pedersen, an energy educator with the NDSU-Extension Service in the Ag and Biosystems Engineering Department. We received support and encouragement from the realtors and bankers, along with NDSU-Extension Service and the ND Department of Commerce. However, upon presenting this at the December 2010 of the NDREAQEB, we were promptly denied, even though it was this board that originally asked for such a scoring tool.

## RESOLUTION:

Our industry groups heard about pending legislation in late 2010, reviewed it, and determined this would be a way to ensure more accountability and transparency from the NDREAQEB, and improve the appraiser situation here in our state. We believe adding a builder and a realtor to their board brings related housing industry partners to the table, as they have with their lending representative. The appraisal industry can't operate in a vacuum. It's part of the housing and real estate industry as a whole, and needs to function more effectively than it has in our state. The housing and real estate industry is interdependent, relying on each other. When one facet of the industry isn't working, they all suffer.

## KEY PROVISIONS:

- Inclusion of a builder and a realtor on the NDREAQEB; replace the public member with an additional appraiser. Reinsert the selection process for the builder and realtor members, with names submitted by the North Dakota Association of Builders and the North Dakota Association of Realtors.
- Instill term limits on NDREAQEB members (two five-year terms)
- More transparency of board activities, meeting notices, minutes; enhanced information on website
- Permitting of applicants from other states within 30 days if licensed and in good standing
- Inclusion of an emergency clause to ensure these provisions are adopted immediately. As we approach the selling and building season here in North Dakota, it's more important than ever to move to improvement. The need for more appraisers is great, and the transition of board members must take place as soon as possible.

We respectfully ask this committee to support Senate Bill 2187, adopt the amendments as presented by the North Dakota Association of Builders, and ensure more accountability and responsiveness from the North Dakota Real Estate Appraisal Qualifications and Ethics Board.

# Questions for the ND Appraisal Board

From the: *Independent Community Banks of ND, ND Association of Builders,  
ND Association of Realtors, and ND Bankers Association*

## ND Appraisal Board

### **What are the responsibilities of the appraisal board?**

N.D.C.C Chapter 43-23.3-03 details the power and duties of the Appraiser Board.

1. *The board, or its designated representative, shall:*
  - a. *Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.*
  - b. *Establish examination specifications for each category of licensed and certified appraiser and administer examinations.*
  - c. *Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.*
  - d. *Discipline permittees.*
  - e. *Hold meetings, hearings and examinations in places and at times as it designates and maintain records of board activities.*
  - f. *Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.*
2. *The board, or its designated representative, may:*
  - a. *Promote research and conduct studies relative to real estate appraising and sponsor educational activities.*
  - b. *Contract for services necessary to carry out this chapter.*
  - c. *Enter into reciprocity agreements with other states.*
3. *The board or its designated representative may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board. Board investigative files are exempt records as defined in subsection 5 of section 44-04-17.1, but a copy of the investigative file must be provided to a licensee if a complaint is filed against the licensee by the board.*

**Does the board have the power to require completion of an accepted appraisal within a specific time, such as six weeks?**

No, the Board does not have the power.

**Can the board sanction an appraiser for failing to give value to such things as a geothermal heating system in a home?**

It is the appraiser's responsibility to properly substantiate to what extent any amenity creates additional value. If it is found through a complaint that substantive errors have been made, an appraiser can then be sanctioned.

**Is there anything the appraisal board can do to reduce the two-year apprenticeship that is required for an appraiser to be fully qualified to perform appraisals without supervision?**

Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Appraisal Qualifications Board (AQB) of the Appraisal Foundation establishes the minimum education, experience, and examination requirements for appraisers to obtain a state certification.

States are required to implement appraiser certification requirements that are no less stringent than those set by the AQB. For the individual making application for certified residential, these requirements include 2,500 hours of experience obtained during no fewer than 24 months. For the individual making application for certified general, these requirements include 3,000 hours of experience obtained during no fewer than 30 months. The required number of months must accrue before an individual can be certified.

**Are North Dakota's requirements exactly the same as AQB's requirements, or more stringent?**

ND follows the AQB requirements.

The following, relative to the appraiser trainee, comes directly from Appraisal Qualifications Board "Real Property Appraiser Qualification Criteria":

"A. The Appraiser Trainee shall be subject to direct supervision by a supervising appraiser in good standing, who shall be state certified.

B. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the Appraiser Trainee by:

1. Accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP.
2. Reviewing and signing the Appraiser Trainee appraisal report(s); and
3. Personally inspecting each appraisal property with the appraiser Trainee until the supervising appraiser determines the Appraiser Trainee is competent, in accordance with the COMPETENCY RULE of USPAP for the property type."

Therefore, the appraiser trainee (apprentice appraiser) must work under supervision until he/she meets the requirements of the level he/she is making application for.

**Does the appraisal board regulate appraisal management companies?**

No, the Appraisal Board does not have the authority to regulate management companies.

**Licensing of Appraisers**

**How many appraisers do we have in North Dakota?**

Currently there are 263 apprentice, licensed and certified appraisers in North Dakota.

35 apprentice  
47 licensed  
31 certified residential  
150 certified general

**How does that compare to five and 10 years ago?**

Five years ago ND had 245 apprentice, licensed and certified appraisers.

Ten years ago ND had 220 apprentice, licensed and certified appraisers.

**How many are FHA certified?**

The Board does not maintain a registry of FHA certified appraisers. A listing of FHA certified appraisers can be found on HUD's website ([www.hud.gov](http://www.hud.gov)).

**Where can we find a list of certified appraisers?**

A listing can be obtained through Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board office. In addition, the Appraisal Subcommittee maintains a nation wide database of licensed and certified appraisers known as the National Registry. This National Registry is located on their website at [www.asc.gov](http://www.asc.gov).

## Who approves applications to be an appraiser? Who approves those who are FHA Certified?

The ND Appraiser Board approves applications for apprentice, licensed and certified appraisers. For information relative to approval of FHA appraisers, check HUD's website at [www.hud.gov](http://www.hud.gov).

## What are the requirements to become an appraiser in ND?

The following is a recap of the requirements for each appraiser level, please refer to the Rules and Regulations for complete details:

### ***Apprentice Appraiser Classification:***

- Education:** Successful completion of 75 hours of Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation (Education must have been obtained within the 5-year period immediately preceding making application).
- Experience:** None
- Examination:** None

### ***Licensed Appraiser Classification:***

- Education:** Successful completion of **150 hours** of Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 2000 hours (240 points) over a minimum of 12-month period
- Examination:** Uniform State *Licensed* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

### ***Certified Residential Appraiser Classification:***

- Education:** **Associate Degree or higher;** in lieu of the Associate Degree, a minimum of 21 semester credit hours covering specific collegiate level subject matter courses from an accredited college, junior college, community college or university.  
In addition to the college level course requirement, successful completion of **200 hours** Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 2500 hours (300 points) over a minimum of 24-month period
- Examination:** Uniform State *Certified Residential* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

### ***Certified General Appraiser Classification:***

- Education:** **Bachelors Degree or higher;** in lieu of the Bachelor Degree, a minimum of 30 semester credit hours covering specific collegiate level subject matter courses from an accredited college, junior college, community college or university.  
In addition to the college level course requirement, successful completion of **300 hours** Board approved real estate appraisal qualifying education covering the **required core curriculum\*** as established by the Appraisal Qualifications Board of The Appraisal Foundation.
- Experience:** 3000 hours (360 points) over a minimum of 30-month period
- Examination:** Uniform State *Certified General* Appraiser Examination  
(Education must be in place prior to sitting for the examination)  
(Successful completion of the examination is valid for a 24-month period)

## Can a licensed real estate agent/broker also become a licensed/certified appraiser?

Yes, as long as the applicant meets the requirements for licensure or certification as an appraiser.

## What is required before an appraiser who is licensed/certified in another state can perform appraisals in North Dakota?

N.D.C.C. 43-23.3-04.1 indicates:

*"The board may issue a permit to an applicant who is licensed or certified in good standing by another state if the other states requirements to be license or certified are at least substantially equivalent to the requirements imposed by this state."*

Therefore, if the appraiser's home state of licensure/certification has substantially equivalent requirements to North Dakota's requirements, and the appraiser is in good standing, the appraiser may apply via reciprocity. However, if the home state of licensure/certification requirements are not substantially equivalent, the appraiser must apply through the full application process, as is required of a resident applicant.

N.D.C.C 43-23.3-11 allows the Board to issue permits to nonresident appraisers on a temporary nature. . The appraiser must be in good standing and make application with the Board, which includes a copy of the contract or letter of engagement for appraisal services. A temporary permit is limited to the appraisal work required by the contract for appraisal services, expiring upon completion of the assignment.

### **Standards, Complaints**

#### **Where can we find the professional and ethical standards that apply to North Dakota appraisers?**

A copy of the Appraiser Rules and Regulations can be found on the Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board office.

A copy of the "Uniform Standards of Professional Appraisal Practice can be ordered through the Appraisal Foundation at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

#### **Where can we find the form to make a complaint to the appraisal board?**

A complaint form can be found on the Appraiser Board website at [www.ndreab.org](http://www.ndreab.org), or by contacting the Appraiser Board office.

### **Timing and Completion of Appraisals**

#### **What are the actual determinants an appraiser goes by to come up with the value of a home: Is there a commonly used list of attributes?**

There is no "checklist". The appraiser is to use the same "determinants" that market participants (buyers and sellers) use in the marketplace.

#### **It takes so long to get an appraisal, why?**

The length of unprecedented low interest rates has fueled a still continued strong demand in the refinance market. In normal times or prior to interest rates falling below, say, 6%, getting an appraisal completed in a timely manner was not a problem.

#### **What can Realtors do to make the process and timeline go smoother?**

This answer would vary with each appraiser. Returning phone calls in a timely manner, accurately reporting sale details, confirming data accurately, and providing factual data are some examples.

#### **Are there any requirements on reappraisal fees? Are there time requirements?**

No known requirements on "reappraisal fees" or completion times. Each appraiser sets their own fees and completion times as negotiated with the client (usually the lender).



**What are the appropriate practices for features on a home that, due to seasonal conditions, may not be finished? For instance, a home completed in December might not have the air conditioner hooked up outside and the landscaping may not be finished. How is that appraised?**

It depends on what is requested by the client (usually a lender). If the value is to include these items, an escrow account may have to be set up. If the request is to appraise the property "as-is", incomplete items are noted but the value is reflective of its present condition.

**What are the inspection requirements? What is required for an appraiser to complete a "final" appraisal?**

There are no specified requirements in statute or rules. Again, this requirement is set by the client (usually a lender). Most times it is self-explanatory. The "final" appraisal or what is commonly requested or the "final inspection" requires that the appraiser attest that all items that were detailed in the plans, specs, and/or purchase agreement be entirely completed.

### **Communication**

**Is an appraiser allowed to communicate with the contractor, real estate agent or banker who is involved in a financing project? If so, what are the limits with each of these persons?**

The appraiser can communicate with all these individuals about most all components of the appraisal except for confidential information and any attempt to discuss or influence the value conclusion.

**There is a proposed guideline emphasizing a separation between the persons ordering, performing and reviewing appraisals (a lender cannot order the appraisal from the appraiser). Does this separation mean that a financial institution will need to use an appraisal management company? Please explain.**

Please refer to the Home Valuation Code of Conduct (HVCC). This can be found at:

<https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/>

A financial institution does not necessarily have to use an appraisal management company. However, they must separate the loan origination department from the person or department that orders and manages the appraisal process. Many local lenders still order their own appraisals but have assigned separate staff to manage the appraisal process. They have not contracted with third party management companies.

Testimony  
SB 2187

I applied for a Certified General ND Appraisal license in late 2007. I have a letter from the ND appraisal board stating that I met their requirements for education, experience and testing. The only thing left to have done before issuing a license to me was to examine a sampling of my work for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). I confidently sent in three of my actual reports for review. I have been appraising professionally since 1985 and was licensed as a certified general appraiser in 1991 in MN. This was the first year Minnesota had licensing. I never had any issue with that regulatory body.

The ND appraisal board sent my three appraisals to James Cannon from Kansas to review my work. This was who they picked. He reviewed my work and found all of it to be "Substantially compliant" with USPAP.

After I got copies of his reviews, the ND appraisal board met and I waited to receive my license. When a month passed I asked one of the board members what the hold-up was. He said he did not know. I called the ND appraisal board to find out when I would get my license and I was told that the appraiser who did the reviews did not know what he was doing so they were going to have them reviewed by someone else. James Cannon, who reviewed my work, was on the board that oversees the actual USPAP book for two years in 2005 and 2006.

They hired someone else to say my work was noncompliant and denied my license. A subsequent administrative law judge stated that they do not have to have any outside reviews and can do whatever they want. At that point my career plan for North Dakota changed.

This testimony was sent to me, Claus Lembke. I was asked to present it to the Hearing committees because the appraiser in question feared retribution from the board.

Senate Bill 2187

Testimony of Senator Curtis Olafson

I was prompted to introduce this bill after hearing of numerous complaints about the North Dakota Real Estate Appraisal Board from appraisers in our state. It is important for you to know that all of the co-sponsors were anxious to sign on to this bill and they conveyed to me that they were hearing the same complaints that I was hearing. In introducing this bill, I am not in any way asking that the Board relax their standards for licensing appraisers in North Dakota or to do anything that would diminish the integrity or work product of the industry. All I am asking is that the Board treat our citizens fairly, equitably and respectfully. I don't think that is too much to ask.

I would also like to make the committee aware of something that I find deeply troubling. I have been told from more than one source that there are numerous appraisers around the state who would have liked to have come in to testify in support of this bill, but they are afraid to do so because they fear retribution from the Board.

The most frequent complaint that I heard related to the Board's denial of license applications. When that happened, the applicant would be told that their application was denied because their appraisals were not compliant with the Uniform Standards of Professional Appraisal Practices. The following is a Wikipedia definition of the standard: "Uniform Standards of Professional Appraisal Practice, commonly referred to by the acronym USPAP, can be considered the quality control standards applicable for real property, personal property, intangibles, and business valuation appraisal analysis and reports in the United States and its territories."

After having their application denied, the applicant would then ask what specifically was wrong with their appraisals that made them not compliant with the USPAP and the reply they received can be paraphrased as "we don't have to tell you." I have submitted for your review a letter from the Board's attorney in response to a request I initiated through the Governor's Legal Counsel requesting a definition of what comprised "substantial compliance" with the USPAP. The Board's answer to the Governor's Legal Counsel and to me was, "we don't have to tell you." I don't think it is unreasonable to ask that any professional licensing Board provide a detailed explanation for the reason why an applicant has been denied a license. I have asked

professionals in other disciplines whether applicants in their field are given a specific reason if their license application is denied. Their answer invariably is "absolutely."

You will be hearing testimony from those in associated industries who are also concerned about the function of the Board. Their livelihoods are tied to the appraisal industry functioning in an efficient and timely manner. They would not be here if there was not a problem that needed a solution.

I would ask for your support of Senate Bill 2187.



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October 1, 2009

[REDACTED]

Senator Curtis Olafson and Ryan Bernstein, Legal Counsel to the Governor, requested that the North Dakota Real Estate Appraiser Qualifications and Ethics Board consider providing you with a definition of "substantial compliance" with the Uniform Standards of Professional Appraisal Practices. The Board considered the matter at their recent meeting, but decided not to provide a definition of "substantial compliance".

The term "substantial compliance", is not used in the law or rules. See, e.g., N.D.C.C. §§ 43-23.3-18 ("shall comply"), 43-23.3-22(1)(f) ("violated"), N.D. Admin. Code §§ 101-02-02-02(4) ("follow"), 101-02-02-06(5) ("compliance with" and "must meet"), 101-03.1-01-01(2) ("failure to comply"). As a result, it would serve no purpose to define "substantial compliance".

It is the Board's position, however, that if violations of USPAP are of such number or magnitude to render an appraisal misleading or unreliable, the appraisal does not comply with USPAP. It is the methodology and completeness which create a credible appraisal necessary for compliance with USPAP. Whether the ultimate determination of value is accurate, does not determine USPAP compliance. The Board has consistently applied this standard in determining whether appraisals comply with USPAP.

Sincerely,

Bill Peterson  
Assistant Attorney General

jjs

cc: Real Estate Appraiser Qualifications and Ethics Board  
Ryan Bernstein, Governor's Office  
Senator Curtis Olafson

Testimony 4-A

3/15/2011

Dear House IBL Committee,

My name is Nathan Schwarz. I have been a licensed appraiser in ND and MN since 1994 and I have been a certified appraiser in MN since 1998. I have been appraising in ND and MN for the past 17 years since obtaining my license.

When the ND Appraisal Board announced that they would offer a Certified Residential license, I began the upgrade process. Because ND does not have reciprocity with MN, the process entails re-taking the appraisal exam, re-submitting all of my education and experience hours and possibly completing an interview or two with the appraisal board.

During my initial interview with the board, we discussed three of my appraisals that had been reviewed by an appraiser in Arizona. The reason his location is important is because it was obvious from some of his remarks in the review that he was not knowledgeable with the market that I work in. But never the less, based on this appraisers review and a short teleconference with the ND appraisal board, my work was deemed inadequate to receive the requested license upgrade. Please understand that this appraisers review of my work is the only written feed back that I will receive throughout this entire process. The ND appraisal board does not provide any written documentation explaining specific reasons for denying a request or what can be done to improve. There is no clear guidance as to what is required by the appraisal board.

The second interview was several months after the first, as I had to accumulate a new work log for review. During the interview a number of comments and suggestions were made about various items in the reports. But no direct violations of USPAP were discussed. At the end of the meeting, they decided that my answers were insufficient and my license upgrade was denied. Again I was told I would not receive any documentation outlining where the board felt I was deficient. When I asked specifically where I needed to improve, they replied that I should know. Doesn't an applicant deserve more specific documentation as to why a request was denied?

Now I appreciate that the board wants competent appraisers. That is the objective of every state appraisal board. So why is it that we don't allow a ND resident reciprocity if they have a license issued in a neighboring state that has the same education, experience and exam requirements? It is my believe that ND residents with an active license in a neighboring state should be allow reciprocity.

Sincerely,

Nathan P Schwarz

Digitally signed by Nathan P. Schwarz  
DN: CN = Nathan P. Schwarz, C = US,  
O = Schwarz Appraisal Company  
Date: 2011.03.14 15:36:42 -05'00'

Nathan P Schwarz

**Testimony of Joe Ibach, Chairman of the North Dakota Real Estate Appraiser  
Qualifications and Ethics Board**

**March 15, 2011**

Good morning. My name is Joe Ibach, chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this board throughout my testimony as either the North Dakota Appraiser Board or the Appraiser Board. Governor Schafer appointed me to the Board in 1993 and I have served as chairman since 1996. I have been an appraiser for 35 years and my business is located here in Bismarck.

A brief history of the licensure of appraisers is important as it relates to this bill. The Appraisal Board was established in 1991 as a result of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). FIRREA was established due to the savings & loan financial meltdown of the late 1980's. Title XI of this bill addressed the need and process for regulation of real estate appraisers. Therefore, Title XI required the enactment of appraiser licensure starting in 1991 – appraiser licensure resulted from a federal mandate. Federal oversight continues as most recently or in 2010, the Dodd-Frank Reform Act will require that states regulate and supervise the operations and activities of appraisal management companies (AMCs). AMCs generally administer the appraisal ordering or delivery system for users of appraisals. The states will be required by 2013 to have legislation in place to license AMCs.

The Appraiser Board still opposes the entire proposed legislation. However, in the spirit of negotiation, the Board has accepted Senate Bill 2187 as engrossed. The Appraiser Board is recommending the two following changes:

1. The Appraiser Board has since found that no federal mandate will require the Board make-up to include representation from the AMC industry once its registration and/or regulation is in place. The Appraiser Board would then propose that the Governor be allowed the option of selecting one of the non-appraiser members from either the

AMC industry or the legal profession. Attorneys are large users of appraisal services. An attorney has been on the Board for about 15 years.

2. Section 43-23.3-04.1 (page 3, line 24) will create some issues relative to reciprocity. Essentially, the bill, as written, states that *"the board shall issue a permit to an applicant who is licensed or certified in good standing by another state."* As written, an appraiser from another state could be found in good standing but may have pending complaints that have not been resolved. Therefore, the following amendment is proposed:

**"43-23.3.04.1. Issuance of permits to applicants licensed or certified by another state.** The board ~~may~~ shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and grounds for denial of the application under section 43-23.3-18 do not exist. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state. Within sixty days of filing a completed application, the board shall take action on the application."

The Appraiser Board still opposes term limits but is willing to accept the changes as specified in the modified legislation. The Appraiser Board needs to maintain continuity and allow a cohesive transition. On behalf of the North Dakota Real Estate Appraiser Qualifications and Ethics Board, I request that this committee seriously consider the two suggested changes to Senate Bill 2187. The Appraiser Board's primary goal is to maintain the appraisal profession's integrity in the state.



# Vote on Senate Bill #2187

120  
Survey Views  
97  
Respondents  
81% of Views

## Results

Q1 Do you support Senate Bill #2187?

21 (22%) Yes, I support the bill ☒ ☐  
71 (73%) No, I oppose the bill ☐ ☒  
5 (5%) Undecided or No opinion ☐ ☒

Q2 I was contacted about the Bill #2187

77 (79%) Within the past month ☐ ☒  
20 (21%) more than one month ago ☐ ☒

Q3 I was consulted by members of the Realtors/Banker/Builders coalition during the development of Bill #2187

7 (7%) Yes ☐ ☒  
90 (93%) No ☐ ☒

Testimony b-A

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### Statement 1: State Regulatory Structure and Independence of Functions

The ASC does not impose any particular organizational structure upon the States. It is recognized that each State may have legal, fiscal, regulatory or other valid constraints that determine the structure and organization of its State agency. States, however, should adopt and maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest or the appearance of such conflicts. Ideally, States should maintain totally independent State agencies answerable only to the governor or a cabinet level official who has no regulatory responsibility for real estate licensing/certification, promotion, development or financing functions (realty related activities). A State, however, may choose to locate its State agency within an existing regulatory body. Any State with its appraiser regulatory function in a department that regulates realty related activities must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.

A State agency may be headed by a board, commission or individual. The organizational structure should provide maximum insulation for the State agency from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions.

Persons appointing officials to a State agency should not be associated or affiliated with an affected industry, i.e., they should not have a direct or indirect financial interest in realty related activities. A State agency head, appointed by the governor and confirmed by the State legislature, would generally be considered independent.

The ASC believes that, as a matter of sound public policy, State appraiser boards or commissions should adequately represent the broad public interest by providing the public with a meaningful opportunity to participate in the agency's decision making process. A State agency should not be dominated in any way by any industry or profession and its board or commission should have one or more qualified public members. The ASC believes that domination of the State agency by representatives of affected industries would be inappropriate and inconsistent with Title XI. The ASC, however, recognizes that members of the appraisal industry should be significantly represented on the appraiser board or commission and believes that a board or commission may contain a majority of appraisers and still adequately represent the broad public interest. A State agency, board or commission, however, should reflect the interests of the State's entire community of appraisers and the general public and not the interests of any professional appraiser organization.

An individual heading a State agency should not be actively engaged in the appraisal business or in any realty related activity during his or her term of office or employment and for a reasonable period thereafter.

The ASC strongly urges that State agency decisions, especially those relating to license or certificate issuance, revocation and disciplinary actions, not be made by State officials who also are responsible for realty related activities. State officials should accept and implement actions of the appraiser board unless they are inconsistent with the public interest and trust. Additionally, State agency decisions should be final administrative actions subject only to appropriate judicial review.

6-C

ETHICS RULE

192 ETHICS RULE

193 An appraiser must promote and preserve the public trust inherent in appraisal practice by observing  
194 the highest standards of professional ethics.

195 An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with  
196 the client or intended users. In addition to these requirements, an individual should comply any time  
197 that individual represents that he or she is performing the service as an appraiser.

198 Comment: This Rule specifies the personal obligations and responsibilities of the individual  
199 appraiser. An individual appraiser employed by a group or organization that conducts itself in a  
200 manner that does not conform to USPAP should take steps that are appropriate under the  
201 circumstances to ensure compliance with USPAP.

202 This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and  
203 Record Keeping. The Conduct, Management, and Confidentiality sections apply to all appraisal  
204 practice. The Record Keeping section applies to appraisal practice performed under  
205 STANDARDS 1 through 10.

206 Conduct:

207 An appraiser must perform assignments with impartiality, objectivity, and independence, and  
208 without accommodation of personal interests.

209 An appraiser:

- 210 • must not perform an assignment with bias;
- 211 • must not advocate the cause or interest of any party or issue;
- 212 • must not accept an assignment that includes the reporting of predetermined opinions and  
213 conclusions;
- 214 • must not misrepresent his or her role when providing valuation services that are outside of  
215 appraisal practice;
- 216 • must not communicate assignment results with the intent to mislead or to defraud;
- 217 • must not use or communicate a report that is known by the appraiser to be misleading or  
218 fraudulent;
- 219 • must not knowingly permit an employee or other person to communicate a misleading or  
220 fraudulent report;
- 221 • must not use or rely on unsupported conclusions relating to characteristics such as race,  
222 color, religion, national origin, gender, marital status, family status, age, receipt of public  
223 assistance income, handicap, or an unsupported conclusion of homogeneity of such  
224 characteristics is necessary to maximize value;
- 225 • must not engage in criminal conduct.

March 15, 2011

Testimony 7

Testimony on SB 2187

Chairman Kaiser and members of the Committee:

My name is Jodie Campbell and I have been part of the Administrative Staff for the ND Appraiser Board for the past 20 years. I am here to address some of the negative comments directed at the Appraiser Board, specifically, what the ND Appraiser Board has not done and what the Board does not do. I would like to provide you some insight on the contrary, 1) what the Board does, 2) has accomplished and 3) what it continues to strive to do for the appraisers in ND.

**The Board Seeks to Educate the Appraisers:**

On an annual basis, the Board works to sponsor a minimum of two educational offerings in different two locations: 1) to provide quality and current education, 2) to assist the appraisers in meeting the 28 hours of continuing education required every two years and 3) to assist in funding the Board and keep annual appraiser fees down.

To determine what type of education to bring in, the Board looks 1) at the areas of noncompliance found in the reviews of applications, 2) at the basis of valid complaints, 3) to Staff relative to complaints called into the Board office, and 4) to the appraisers for their suggestions. In essence, the Board members look for education that will help improve the appraiser profession in ND.

*It has been inferred by some supporters of the Bill that the ND Appraiser Board has "turned a blind eye" to the problems it has been made aware of in the appraiser profession.....I disagree.*

The Appraiser Board was informed of problems of unprofessional conduct where "some" appraisers are being rude to bankers, real estate sales persons, lenders, as well as members of the public. The consensus of the Board members, after discussing this issue, was that this type of conduct is not only unprofessional but is unacceptable. The Appraiser Board has also made aware of the problems with the timeliness (or lack thereof) of the appraisers completing appraisal assignments.

With this type of conduct occurring throughout the appraiser profession in ND, the Board looked to an instructor to develop a seminar covering these specific issues. In November of 2010, the Board sponsored the 7-hour seminar *Enhancing Professionalism in Appraisal Practice "Recognize and Correct Deficiencies"*, providing it in two locations.

Through its review process the Board has found issues that appraisers appear to be struggling with on a consistent basis. How better to address these issues than through education? The Board has sponsored numerous seminars, some of which include "The Approaches to Value (Methodology and Applications)", "Appraisal Improvement through Peer Review", "Report Writing", "Analyzing Market Conditions", "Residential Cost Approach and USPAP Compliance", etc. But keep in mind, the Board can only provide education, it's up to the individual appraiser to take advantage of the educational opportunities offered. It has been my observation that most appraisers do want to keep informed and do take advantage of the Board offerings.

Early on when the Board first began sponsoring education the Board was approached by appraisers who hold both an appraiser permit as well as a real estate license, requesting the Board seek continuing education approval with the Real Estate Commission to help the appraisers satisfy continuing education requirements for both permits. As a result, the Board makes every effort to make application with the Real Estate Commission for continuing education approval for each course it sponsors, to assist the appraisers that hold both "an appraiser and a realtor" license to meet the continuing education requirements for both professions.

*So to say the Board does not communicate with the appraisers or that they "turn a blind eye" ....I disagree*

Major (federally mandated) changes came about January 1, 2008, which affected all levels of licensure/certification throughout the appraiser profession.

These (federally mandated) changes included:

- 1) increased education for all levels,
- 2) a required core curriculum and
- 3) a required college degree for the certified levels.

In addition, ND began offering the certified residential classification on January 1, 2008. To ease the transition, the Board adopted a "segmented" approach for implementing the new criteria, meaning, as long as the applicant met all the education requirements prior to January 1, 2008, the applicant was provided an extension of time (1 ½ years) until July 1, 2009 to make application under the old criteria. If an appraiser did not meet the education requirements prior to January 1, 2008, he/she would have to apply under the new criteria in effect January 1, 2008.

The Board looked at the education a licensed individual would need to move up to the certified residential level and agreed it would be beneficial to sponsor "qualifying" courses to assist the ND licensed appraisers in meeting the education requirements for certified residential, as well as assist them in preparing to sit for the national certified residential examination. For those reasons, the Board sponsored three qualifying education courses in 2007: a *15-Hour USPAP Course*, a *15-Hour Residential Report Writing & Case Studies Course*, and a *15- Hour Small Residential Income Property Appraisal Course*.

All apprentice, licensed and certified appraisers are required to complete a 7-Hour National USPAP Update once every two years. As appraisers have different years in which USPAP is required, the Board set policy to offer the *7-Hour National USPAP Update Course* every year in-state to accommodate appraisers in need of the course.

The Appraisal Subcommittee, (oversees the state regulators) gave "kudos" to the ND Appraiser Board for its efforts in providing everyone of its active apprentice, licensed, and certified appraisers with a copy of the most current "*Uniform Standards of Professional Appraisal Practice*" (USPAP) book. The ND Appraiser Board is one of the few Boards or Commissions throughout the United States to provide this service to its appraisers. The Board decided early on that it was imperative to keep appraisers informed of the standards as they are adopted and one way to do that is make sure that every active licensed and certified appraiser in ND receive the most current copy of USPAP (the Standards by which they must adhere to).

*I'm providing this information to make you aware of what length the Board goes to assist appraisers in the state.*

**To accommodate applications, complaints, etc., the Board holds additional meetings over**

The Board is required to meet on a quarterly basis and these quarterly meetings are listed on the ND Appraiser website as well as with the Secretary of State office, as required. However, the Board convenes through teleconference calls on an "as needed" basis (we are researching the cost of videoconferencing as well). Looking back at the past five years, the Board met over double the "required" meetings. These "as needed" meetings were called to address applications and handle complaints. Here is a recap of the number of Board Meetings in the last five Years:

2006 – 9 meetings

2007 – 12 meetings

2008 – 8 meeting

2009 -13 meetings (6 were held between Nov 9 – Dec 21)

2010 - 7 meetings

As indicated earlier, on January 1, 2008, 1) new requirements went into effect for licensure and certification, and 2) the ND began offering the certified residential level. To assist in a smoother transition, the Board adopted a "segmented" approach for implementing the new criteria. As long as the applicant met all the education requirements prior to January 1, 2008, the applicant would have until July 1, 2009 to make application under the old criteria. Unfortunately, the majority of appraisers did not take the time to make application until closer to the deadline of July 1, 2009.

Most applicants for the certified residential level had completed their national examination year end 2007. The examination has a shelf –life of 24 months, which means the application has to be processed and permit issued within that 24-month timeframe (this is federally mandated). If the permit is not issued within the 24-month timeframe, the applicant must re-take the national examination. Thus, later part of 2009 the Board was "under the gun" to get these applications processed, work product reviewed and permits issued before the examinations expired. "I believe" the Board members went above and beyond the call of duty (6 meetings were held between Nov 9 – Dec 21) to meet and consider applications to accommodate the appraisers before their examinations were to expire.

*This information is being provided because one of the Sponsors of the Bill commented to me in an e-mail "it's time the Board serves the People, not itself". I think it's very apparent that the Board does serve the people.*

## **Licensing and certification of nonresident appraisers:**

There has been a lot of discussion regarding nonresident applicants. Nonresident appraisers can make application for licensure or certification in ND through, 1) temporary practice, 2) reciprocity, and 3) through the same licensure/certification application process as a ND resident.

### Temporary practice

Temporary practice enables a nonresident certified or licensed appraiser to obtain a temporary permit from ND to perform "an appraisal assignment" in ND. A temporary permit is limited to perform the appraisal work required by the appraiser's contract for appraisal services (the contract could include numerous properties). Each temporary permit expires upon the completion of the appraisal work required by the contract for services.

To make application for a temporary permit an applicant must be in good standing, complete the application, provide a copy of the contract or letter of engagement and pay the fee (\$150). The turn around time in issuing a temporary permit generally does not exceed 2-3 days, but typically is completed the day the application is received, as long as everything in the application is in place. The application can be found on our website at [www.ndreab.org](http://www.ndreab.org).

The ND Appraiser Board has issued hundreds of temporary permits in the last five years as recapped:

2010 - 111 temporary permits were issued

2009 - 90 temporary permits were issued

2008 - 124 temporary permits were issued

2007 - 71 temporary permits were issued

2006 - 71 temporary permits were issued

### Reciprocity

When discussing applications "via reciprocity", it's important to remember that reciprocity relates to appraisers who are actively appraising as a licensed or certified appraiser in another state. To be considered as an applicant via reciprocity, the applicant must be actively licensed or certified in another state and in good standing in all jurisdictions of licensure or certification. Once that has been determined, the applicant must provide verification that the requirements of the state in which the applicant was licensed



or certified in are at least substantially equivalent to the ND requirements for licensure or certification, this includes providing verification that actual work product was reviewed at the time of application and approved to meet the minimum standards set forth in the *Uniform Standards of Professional Appraisal Practice* (USPAP). If this information is provided, the applicant can make application via reciprocity, completing a "two-page" application - for approval by the ND Appraiser Board

Review of work product at the time of application appears to be one of the main issues hindering appraisers from making application via reciprocity. Effective 10/1/08, all states are required to review a representative sampling of work product as part of the application process. Prior to this not all states reviewed work product and therefore their requirements are not "substantially equivalent" to ND requirements for licensure and certification. This federal mandate requiring all states review work product as part of the application process will make it easier for future applications via reciprocity.

Through the same licensure/certification application process as ND resident:

A nonresident applicant who can not provide verification that the requirements of the state in which the applicant was licensed or certified in are at least substantially equivalent to the ND requirements for licensure or certification can still make application in ND, but must go through the same application process as a ND resident. The applicant must meet the education, examination and experience requirements for the level in which they are making application for. However, it's important to note that as long the applicant is actively appraising in another state, the national examination does not have to be re-taken, the education the applicant completed will carry over (although must meet the required core curriculum), and the years of experience will carry over. The applicant must complete the application, provide documentation, provide an Experience log and a selection of appraisals will be made and reviewed for compliance with the *Uniform Standards of Professional Appraisal Practice* (USPAP), no more than what is required from our resident applicants.

**Review of Applicant's Work Product:**

Among its many responsibilities, the North Dakota Appraiser Board is charged with making sure an applicant appraiser can demonstrate proficiency in developing and reporting an appraisal according to the Uniform Standards of Professional Appraisal Practice. As one would expect, this proficiency must be demonstrated prior to issuing a permit. It is paramount that an applicant can demonstrate his/her abilities

to develop and report an appraisal according to the minimum standards (USPAP) before being granted a permit as a licensed or certified appraiser.

Initially, the three appraisal members of the Appraisal Board reviewed all appraisal work product to make sure each applicant could develop and report an appraisal in compliance with the *Uniform Standards of Professional Appraisal Practice*. Several appraisers raised concern that they were being reviewed by their competition which did not seem to be fair. These appraisers felt that perhaps in a much larger State, this would not be a concern but in a small State like North Dakota, it was a significant concern, at least to these appraisers. After giving this concern much thought, the members of the Appraisal Board sought to find a solution.

Essentially, the Appraiser Board decided to contract with qualified reviewers from outside the State. The out-of-State reviewers sought were to be highly qualified appraisers with respect to USPAP and appraisal methodology. It was recognized that these individuals were not "geographically competent" but since the review assignment(s) did not involve disputes over value issues, beyond appraisal methodology and mathematical competency of the applicant, geographic competency was not required. This outside reviewer process is still used today and the scope of the reviews is limited to appraisal methodology, including mathematical correctness, and USPAP compliance.

Although out-of-State reviewers did alleviate the concern over being reviewed by ones competition, the ultimate responsibility of deciding if an applicant's work product has met minimum USPAP requirements still rests with the members of the Appraisal Board.

An overview of the process followed when reviewing an applicant's work product is as follows. As part of the application process the applicant must submit an Experience Log. A minimum of three sample appraisals are selected from this Experience Log and the applicant is asked to send a true copy of these appraisals, along with supporting work file documentation. The appraisals and work file documentation are then forwarded to one of the out-of-State review appraisers for a Standard 3 review of each of the appraisals submitted.

Once the applicant's work product has been reviewed by the reviewer, the applicant receives a copy of the reviews and is offered the opportunity to respond in writing and/or address the Board to discuss the reviews. The Standard 3 reviews, the reports, and the applicant's are provided to the members of the Appraiser Board for their consideration.

Generally, the applicant's full application, including the appraisal work product submitted and reviewed, will be scheduled for consideration at the next meeting of the Appraiser Board. The applicant is strongly encouraged to attend the meeting of the Appraiser Board (preferably in person but at least by telephone conference call) where the application and the applicant's work product will be discussed.

Because the ultimate responsibility of applicant approval rests with the Appraiser Board (and not with the out-of-State reviewer) the Board members, particularly the appraiser members of the Board, will also make comment on the review, the applicant's response to the review and the applicant's work product.

In some instances the Appraiser Board has felt that the out-of-State reviewer has been overly zealous with respect to the applicant's work product meeting minimum USPAP standards. However, there have also been instances where the appraiser members have identified USPAP concerns, including concerns over proper appraisal methodology that had not been identified by the out-of-State reviewer.

It is for this reason that action on a particular applicant's work product may be delayed or tabled. Many times it is in the applicant's best interest to have his/her application tabled rather than denied. This allows an applicant to use the process of the review as a learning tool for future work product submission.

While the review process does take time it has specific benefits to the public in that individuals permitted as licensed or certified appraisers have demonstrated that they have at least met the minimum education, examination and USPAP compliant experience requirements set forth by the Appraisal Qualifications Board of the Appraisal Foundation.

#### **Conclusion:**

I have observed the Board members struggle with difficult decisions regarding applications, complaints, rule changes, policies, etc. time and time again, working hard to uphold the purpose of the Board, which

is to protect the public. The existing Board and statute have served the State of ND very well. I see no need for new legislation. However, in the spirit of compromise I would support SB 2187, with the amendments as recommended by the ND Appraiser Board and expressed in the testimony of Mr. Joe Ibach, Chairman of the Board.

I Thank you for the opportunity to provide comment.

Jodie R. Campbell

Administrative Staff

NDREAB

March 15<sup>th</sup>, 2011  
Testimony on SB 2187  
Chairman Kaiser and members of the Committee.

**Introduction:**

My name is Dave Campbell and I have been appraising for about 35 years. I grew up in Dunseith, North Dakota and my family still has interest in the community bank serving the area. I started my appraisal career in Minot in the fall of 1975, working for a local real estate appraiser. I gained considerable insight and experience from my mentor appraiser and I obtained my education by going out-of-State to locations such as Boulder, Colorado; San Francisco, California; Huston, Texas and other similar locals. I completed the requirements to obtain an SRPA (Senior Real Property Appraiser) designation from the Society of Real Estate Appraisers in 1982. I completed the requirements to obtain an MAI (Member of the Appraisal Institute) designation from the American Institute of Real Estate Appraisers in 1983. The Society of Real Estate Appraisers and the American Institute of Real Estate Appraisers merged into the Appraisal Institute and I currently hold the MAI and the SRA designations from this professional appraisal association. I currently hold a Certified General Real Property Appraiser permit from North Dakota.

My wife (Jodie) and I contract with the North Dakota Appraisal Board to provide certain administrative services as requested. We have provided these services since the fall of 1991. Jodie and I have separated our testimony. My testimony will provide a very brief overview of (1) the history of the federal legislation (FIRREA), (2) the history of the appraisal legislation in North Dakota, (3) the current Appraisal Board members, (4) recent testimony critical of the North Dakota Appraisal Board, and (5) my personal observations and opinions.

**History of the Federal Appraisal Legislation (FIRREA):**

The Appraisal Board was established in 1991 as a result of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). FIRREA was

established due to the savings & loan financial meltdown of the late 1980's. Title XI of this bill addressed the need and process for regulation of real estate appraisers. The intent of this regulation was to have a "three legged" enforcement tool to ensure that appraisals conducted for "federally related transactions" over a certain dollar amount (diminimus) would be performed by qualified and competent appraisers.

The first leg of this FIRREA established enforcement tool was and continues to be the Appraisal Subcommittee (ASC). Among its many obligations, the ASC has an oversight responsibility to include the monitoring the Appraisal Foundation as well as monitoring of the individual states or jurisdictions. Every two years, the Appraisal Subcommittee sends policy managers to each state or jurisdiction to insure that the state/jurisdiction is in full compliance with federal law.

The second leg of the FIRREA enforcement tool was and continues to be the Appraisal Foundation. This non-profit organization was established by the appraisal community in 1987 and is dedicated to the advancement of professional valuation services. Initially, the Appraisal Foundation sponsored two independent boards to help complete its mission. The first of these boards or the Appraisal Qualifications Board (AQB) is responsible for establishing the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification. The second board or the Appraisal Standards Board (ASB) is responsible for the development, interpretation, and amendments to the Uniform Standards of Professional Appraisal Practice (USPAP). Most recently, the Appraisal Foundation added a third board or the Appraisal Practices Board (APB) to provide voluntary guidance on recognized valuation methods and techniques.

The third enforcement leg of FIRREA was the individual state or jurisdiction that would establish a state law to implement Title XI. In this regard, Chapter 43-23.3 of the North Dakota Century Code was created in 1991 to regulate real estate appraisers. It is imperative for the

committee members to understand that the establishment of the real estate appraiser statute was a federal mandate. Prior to 1991, appraisers were not subject to licensure.

Recently passed federal legislation, commonly known as the Dodd/Frank act, has modified the authority and responsibilities of both the Appraisal Subcommittee and the individual states or jurisdictions. I will not elaborate on these changes at this time except to say that the North Dakota Appraisal Board will be required to regulate Appraisal Management Companies (AMCs) in future years.

**History of the Appraisal Legislation in North Dakota:**

On a local level, several appraisers, lenders and real estate representatives met at public forums in Bismarck (Heritage Center) and also in Carrington (Chieftain Motel) to discuss this new federal law and to formulate a committee to draft a law to present to the North Dakota Legislature. I was a member of this committee. As time was limited and recognizing that appraisers had very little in the way of political support, a representative from the real estate sales community (Claus Lembke) and the banking community (Keith Magnusson) were asked to assist in this endeavor. We used several model bills and bills from other States to assist in writing the North Dakota Law. Some of the members of this committee stipulated that the North Dakota Law be written to meet, but not to exceed, the minimum requirements of the federal law. It was also clear that these members wanted North Dakota to be a "voluntary state" rather than a "mandatory state" and since it was necessary (from a political standpoint) to present a unified position, the remaining members of the committee agreed to these stipulations.

The requirements for the licensed level permit were lower than the requirements for the certified residential level permit and since the committee agreed to meet only the minimum requirements, the licensed level permit would be sought as part of the proposed North Dakota law. Furthermore, it was agreed that the certified residential level permit would not be included in the proposed legislation. It is interesting to note that this lower hurdle limitation would later end up hurting the best interests of the State of North Dakota when the Federal Housing Agency

(FHA) mandated, some years later, that all FHA appraisals needed to be completed by a State Certified Residential or a State Certified General appraiser, not a State Licensed appraiser. While the North Dakota Appraisal Board eventually added the Certified Residential level, there are still many licensed level appraisers who are not eligible to perform appraisals for FHA. The proposed legislation also included a certified general permit.

Several drafts were needed but ultimately the proposed bill was finalized, presented to the North Dakota Legislature and ultimately passed into law. The law was signed by Governor and became effective in 1991. The first real estate appraisers were permitted by the North Dakota Appraisal Board on December 16<sup>th</sup>, 1991.

In addition to working together in writing the law, several of us sought to find solutions to other concerns, including finding an "administrative home" for the Appraisal Board. Another identified concern was finding an administrator or executive director who could assist in the day to day operations of the Appraisal Board.

To address these concerns several committee members and other concerned appraisers approached the North Dakota Banking Commission as well as the Real Estate Commission with an inquiry about sharing office space to provide an administrative home for the Appraisal Board. We were denied by the Banking Commission and accepted by the Real Estate Commission. However, the Real Estate Commission was conditional, specifically, the Real Estate Commission would provide an administrative home for the Appraisal Board, but only if the Real Estate Commission would have final control of the decisions made by the Appraisal Board.

We could not accept this offer as it was clear the Appraisal Board (much like independent appraisers) needed to be completely autonomous in many areas (such as approval of applicants, disciplinary actions taken against licensees and other matters). We were disappointed and it seemed that finding an administrative home for the Appraisal Board was at a standstill.

One of the members of this search committee knew I had been training my wife (Jodie) to become an appraiser and also knew she had decided against pursuing a career as an appraiser. I



was asked if Jodie would be interested in applying for the administrative position with the North Dakota Appraisal Board. I said I would check with her.

Jodie was concerned she was not all that versed in the recently passed law and was also concerned her knowledge of real estate appraisal was limited as she had only completed two or three classes related to real estate appraisal. I suggested we consider bidding for the administrative position as a team with Jodie providing the day to day operational duties and with me providing her with assistance related to the law and real estate appraisal issues where she may need any such assistance. Ultimately we decided to submit a "team" bid package to the North Dakota Appraisal Board. Jodie and I have been providing administrative services to the North Dakota Appraisal Board since 1991.

**Current Appraisal Board Members:**

The members of the Appraisal Board currently include John McMaster, a practicing attorney and the public member from Williston, Harvey Huber, the financial member and President/CEO of Unison Bank in Jamestown, Wade Iverson, an appraiser member from Minot (designated as the agricultural member), Carolyn Corwin, an appraiser member from Fargo, and Joe Ibach, an appraiser member from Bismarck.

- **John McMaster** does not provide the Appraisal Board with legal advice, per se, but his experience and knowledge, including his background in real estate, have undoubtedly helped the Appraisal Board decisions in many ways. As the sole public member of the appraisal board, John can provide independent observations about how actions or inactions of the Appraisal Board may be significant to the protection of the public trust the Appraisal Board seeks to achieve.
- **Harvey Huber** brings a unique prospective to the Appraisal Board in that he served on the Board of Trustees for the Appraisal Foundation for six years as a representative of the American Bankers Association. Thus Harvey knows and understands the purpose, intent and history of the Appraisal Foundation to a degree few others in the State comprehend. The banking industry is heavily regulated and although banks in general have a vested interest in loan production, they also must adhere to strict regulatory oversight and underwriting requirements.
- **Wade Iverson** is a full time practicing appraiser and serves as the Chief Appraiser for Farm Credit Services of North Dakota. He holds a Certified General Real Property Appraiser permit from North Dakota. Although Wade specializes in agricultural appraisals he also has extensive background in preparing and/or reviewing appraisals of

commercial properties. Wade is also involved in various safety and soundness decisions relative to the demands of his employer.

- **Carolyn Corwin** is a full time practicing appraiser, specializing in appraisals of residential properties in the Fargo/Morehead area, to include surrounding communities. She holds Certified Residential permits from both North Dakota and Minnesota. Carolyn is a Realtor in order to have access to the area multiple listing service but she is not active in real estate sales.
- **Joe Ibach** is a full time practicing appraiser with probably one of the most diverse appraisal backgrounds of any appraiser in the State of North Dakota. He performs and reviews residential, commercial and agricultural appraisals in many areas of the State and the region. Joe holds a Certified General Real Property Appraiser permit from the State of North Dakota and also holds Certified General appraiser permits in several other States in the region.

The diverse background of the North Dakota Appraisal Board has served and continues to serve North Dakota in a way all citizens should appreciate. The diversification of the appraiser members of the Appraisal Board is especially critical for the public interest protection.

The members of the Appraisal Board have dedicated countless hours of professional service in order to enhance public trust by trying to make sure that individuals permitted in this State meet the minimum qualifications set forth by the Appraisal Qualifications Board of the Appraisal Foundation as well as the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

The members of the North Dakota Appraisal Board are also acutely aware of and make every attempt to abide by the oversight leg of this three legged enforcement partnership, the Appraisal Subcommittee.

#### **Recent Testimony Critical of the North Dakota Appraisal Board.**

Recent testimony presented at the Senate hearing made several allegations related to the past conduct of the North Dakota Appraisal Board.

One of the criticisms identified in the Senate testimony was that the Appraisal Board was not open and transparent in its day to day operations. Generally, the North Dakota Appraisal Board meetings are not attended by anyone other than the members and staff of the Appraisal Board. However, all meetings of the Appraisal Board are open to the public and public comment

is always welcome. The date and time of the Appraisal Board meetings is posted with the office of the Secretary of State, as required. The files maintained by the Appraisal Board, with few exceptions, are also public records and are available for public viewing.

Ironically, SB 2187 was drafted through a coalition that included certain legislators as well as representatives from the real estate sales industry, the homebuilder industry and the banking industry. The one industry most impacted by this legislation, the appraisal industry, was not included in the drafting of this legislation. Furthermore, very few individuals from the appraisal industry knew anything about this pending legislation until just prior to the date the legislation was introduced as SB 2187. In fact, most individuals from the appraisal industry did not become aware of this legislation until after it had been officially submitted. I hope I am not sounding mean spirited but I must say I am puzzled in that these actions do not appear to reflect open and transparent efforts on the part of those drafting the legislation.

On December 15<sup>th</sup>, 2010, the North Dakota Appraisal Board invited representatives from the banking, real estate sales and home-builder industries to a face-to-face meeting with the intent of discussing legislative issues. The main topic of discussion was proposed legislation being considered by the banking association related to new federal legislation requiring regulation of Appraisal Management Companies (AMCs).

Since the topic of this meeting was related to proposed legislation, it would have seemed the proper approach would have been for these associations to have a dialog with the Appraisal Board about the upcoming legislative action they had been cooperatively discussing. This would have been in a spirit of open and transparent communication, something these associations claim was a problem with the actions of the North Dakota Appraisal Board. However, when asked directly if the associations had any other legislation they would like to discuss, the answer was in the negative. Rather than to hold open and transparent dialog, these associations chose to withhold their plans from the Appraisal Board and indeed the entire appraisal industry. Once

again, I hope I am not sounding mean spirited but I am both puzzled and disappointed that we were not able to have more open and direct dialogue, prior to legislative action being taken.

As part of this December 15<sup>th</sup> meeting, the Homebuilders provided a power point presentation related to energy efficient construction costs and benefits. The Appraisal Board members all felt the presentation was very informative and educational. The study conclusion was that a house built with a certain energy efficient rating, as independently verified by an outside consultant, should be worth a higher market value than another similar home constructed without these features. Specifically, the homebuilder study and presentation suggested that a house constructed to the specified energy efficient specifications should be worth seventeen (17%) more than a similar sized, conventionally constructed home.

After the presentation, the presenter(s) asked if the North Dakota Appraisal Board would endorse the study and thereby require that appraisers throughout North Dakota reflect a 17% adjustment when comparing a conventionally constructed home to one with the specified energy rating certificate. USPAP (Page U-1, lines 34-35) defines an appraiser as one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective. An appraiser is not allowed to perform an appraisal with bias or advocate the cause or interest of any party or issue, or even accept an assignment that includes the reporting of predetermined opinions and conclusions (USPAP page U-7, lines 210-215).

Members of the Appraisal Board explained to the homebuilder representatives that when estimating the market value of a particular property, an appraiser attempts to reflect the probable actions of both sellers and buyers in a specifically defined market area. If the buyers in a particular market area were unwilling to pay the full price for energy efficient construction, it would be unethical for an appraiser to disregard this buyer(s) willingness and arbitrarily adjust an appraisal by a mandated percentage. Therefore, it would be equally unethical for the North Dakota Appraisal Board to mandate any such adjustment.

However, members of the Appraisal Board did suggest that a cooperative effort between the homebuilder, real estate sales and appraiser industries could be mutually beneficial in monitoring the cost/market value relationship for energy efficient construction. The results of this research may be useful to all three industries when it comes to estimating the market supported contributory value of energy efficient construction.

Several legislators signed on to SB 2187 and testified at committee hearing about being contacted by one of their constituents concerning what they perceived was poor performance and unfair treatment that these individuals had received from the Appraisal Board. The claims of both unprofessional practice on the part of Appraisal Board members (and its staff) along with the claims of mistreatment of unidentified appraisers expressed by those testifying (reportedly due to the appraisers' fear of retribution or retaliation by the Appraisal Board) were expressed by these legislators. Once again I do not want to be mean spirited but I wonder why not one of these legislators ever contacted the Appraisal Board directly to ascertain "the other side of the story" or allowed the Appraisal Board to respond to any performance issues or unfair treatment allegations.

In the hearing in front of the Senate Government and Veterans Affairs committee the real estate sales and home-builder industry/association(s) provided considerable testimony concerning grievances against the Appraisal Board as well as grievances against the unprofessional conduct being followed by several appraisers in the State. However, in the last 20 years, neither the real estate sales industry/association nor the home-builders industry/association have asked to publicly address the Appraisal Board with respect to the concerns they identified at the hearing. We had met with a group of individuals from these industries and answered a questionnaire they had provided. We had no feedback from these industries with respect to this questionnaire.

**My Personal Observations and Opinions:**

I believe the North Dakota Appraisal Board (members and staff) has been open and transparent in their day to day operations. I also believe the Appraisal Board has been willing to listen to and address concerns when they are asked to do so. Finally, I believe the Appraisal

Board has been diligent in meeting and balancing its responsibilities of protection of the public trust along with insuring that the applicants and permittees are being treated in a fair and equitable manner.

I believe the role of the Appraisal Board should not be to directly serve the appraisers, the bankers, the people involved in real estate sales or homebuilding industries. Rather the role of the Appraisal Board should be to serve the public, as a whole, by making every reasonable effort to garner and maintain the public trust by issuing permits to appraisers who can demonstrate at least a minimum level of ethical integrity and competent performance. Indirectly, this public service will better serve the independent, objective and ethical appraisers who are permitted by the North Dakota Appraisal Board to appraise property interests in this State. The bankers, real estate sales persons and the home builders also benefit, although perhaps it may not seem so at the time, by having independent, objective value assessments preformed by ethical and competent appraisers. Unfortunately, the real benefit to society is often shown only during times of market downturns.

I was privileged to hear Sister Thomas Welder speak on the topic of "Servant Leadership". In a nut shell a servant leader is a servant first and this begins with a natural feeling that one wants to serve first and then the conscious choice brings one to aspire to lead. The servant leader serves others, rather than others serving the leader.

I have also been privileged in that I have been in a position to observe the North Dakota Appraisal Board members over the past two decades. I have seen the members of the Appraisal Board dedicate countless hours of their time reviewing applicant's work product, professional reviews of this work product and applicant's responses to the professional reviews of the applicant's work product. I have watched Appraisal Board members struggle with many issues and in each and every time have found the members to be unbiased, objective, independent, ethical and competent in their deliberations and decisions.

**Term Limits:**

I do have concerns over the “forced term limits” for the Appraisal Board members. The time and effort required by all of the Board members, but particularly the appraiser members of the Appraisal Board, is extensive. Generally it will take the appraiser members of the Appraisal Board 6 to 12 hours of preparation prior to each quarterly meeting. The compensation for an Appraisal Board member is nominal at \$50.00 per day, plus reimbursement for mileage and meals. The appraiser members of the Appraisal Board provide the needed technical expertise to understand not only the Uniform Standards of Professional Appraisal Practice but also to provide the technical expertise needed to understand the proper appraisal methodology required to provide credible appraisal results. A non-appraiser member of the Appraisal Board, such as a public member, has not been extensively trained in proper appraisal methodology and generally has only a limited understanding of the requirements of USPAP.

The appraiser members of the Appraisal Board expect that their own work will be under constant scrutiny, especially from those individuals who have been disciplined. It is often difficult to find volunteers to serve in any capacity whether it is on a church committee, a non-profit charitable organization, a school board or a public office. I can tell you from my past experience as past President of three different professional associations in this State that it is difficult to find individuals who are willing to spend the needed time and effort to competently serve in these professional appraisal associations.

It is a commitment to the cause or profession that drives the servant leader. To take a qualified professional who is willing to dedicate his or her time to the profession is something that should be appreciated, not something that should be forced out simply due to the number of years an individual is willing to serve in such capacity.

**Appraisal Board Composition:**

I do not have a significant problem with representatives from the appraisal management, banking, homebuilder, legal or real estate sales industries serving on the Appraisal Board, provided these persons can represent the public and not just their respective industry. These

individuals can bring an outside perspective that may be helpful in better serving the public trust. However, due to the technical nature of the appraisal profession I do feel strongly that the Appraisal Board should be dominated by individuals from the appraisal profession.

My personal opinion is that a seven member appraisal board should be comprised of five appraiser members and two members representing the public.

The public members could come from the appraisal management, banking, homebuilder, legal or real estates sales industries, provided that these members represent the public interest rather than the interests of the respective industries.

Has the Appraisal Board made mistakes along the way? Certainly, but what Board or Commission has ever been perfect? The important thing is that the Appraisal Board members have made changes when they have identified problems and have always kept the protection of the public trust at the forefront of their efforts.

As a person who has dedicated my entire career to the real estate profession I can say without reservation or doubt, that I have been privileged to observe the actions and professional conduct consistently followed by the Appraisal Board members.

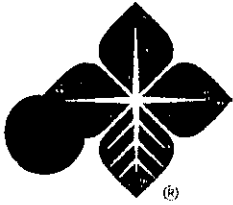
Quite frankly, I can not imagine a better group of servant leaders, dedicated to the protection of the public trust. With this dedicated public service, the public trust in appraisal profession is only enhanced.

**Personal Request:**

I recognize the modifications made to SB 2187 have substantially improved the original legislation. I also recognize that the members of the North Dakota Appraisal Board would prefer that this legislation be defeated but have offered a compromise position in the event that you as legislators feel the bill should be supported.

With this in mind I personally request that SB 2187, as modified, be defeated. However, if you as legislators feel this legislation is appropriate, I would support SB 2187 with the amendments as recommended by the North Dakota Appraisal Board.





Testimony 9

# **North Dakota Farm Credit Council**

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**Testimony of Dana Bohn  
North Dakota Farm Credit Council Executive Director  
SB 2187  
March 15, 2011**

Chairman Keiser and members of the House Industry, Business and Labor Committee, my name is Dana Bohn. I am here today on behalf of the North Dakota Farm Credit Council (NDFCC) to propose an amendment to SB 2187 to include North Dakota Farm Credit System associations in the list of financial institutions eligible to submit candidates for appointment to the State Appraisal Board.

NDFCC is comprised of three farmer/rancher-owned independent Farm Credit associations that provide credit and financial services to farmers, ranchers and agribusinesses of all sizes and income ranges in every county in North Dakota. As one of the state's largest ag lenders, North Dakota Farm Credit associations provide approximately \$5.5 billion in credit and financial services to nearly 19,700 customers.

While the intention of SB 2187 is to clarify rules related to the State Appraisal Board and address the shortage of appraisers in the state, the bill also outlines the list of financial institutions eligible to submit candidates for appointment to the Board.

The North Dakota Farm Credit Council feels North Dakota Farm Credit System Associations should be included in the list of entities eligible to submit candidates for appointment. Our associations have over 95 years of experience specific to the agriculture lending and a thorough understanding of how appraisal practices affect the state's agriculture industry. We have included a proposed amendment to SB 2187 for your consideration.

Although it is important to outline clear rules for the State Appraisal Board, the North Dakota Farm Credit Council feels it will also be a benefit to the Board to include agriculture specific lenders as eligible candidates for appointment to the Board. We urge you to amend SB 2187 to include North Dakota Farm Credit System Associations in the bill's list of eligible financial institutions.

Independently owned and operated associations serving North Dakota and northwest and west central Minnesota.

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Proposed Amendment to Engrossed Senate Bill No. 2187

House Industry, Business and Labor Committee

Page 1, line 21, remove "and"

Page 1, line 23, after "association" insert ",and the North Dakota Farm Credit  
system associations"

**43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.** The board ~~may~~ shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and grounds for denial of the application under section 43-23.3-18 do not exist. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state. Within ~~sixty~~ <sup>thirty</sup> days of filing a completed application, the board shall take action on the application.

N. Johnson